AMENDED TERMS AND CONDITIONS OF THE NOTES

ISIN: DE000A19SPK4
German Securities Code (WKN): A19SPK

Notes and any interest therein may only be offered, resold, transferred, assigned, pledged or otherwise disposed of in *bona fide* "offshore transactions" (as defined in, and in reliance on, Regulation S under the U.S. Securities Act of 1933, as amended (the "**Securities Act**")) to persons outside the United States not known by the transferor to be U.S. persons (as defined in Regulation S under the Securities Act) by pre-arrangement or otherwise, *provided* that any Noteholder holding Notes on the Amendment Effective Date (an "**Initial Noteholder**") may transfer the Notes (or any interest therein) to any other Initial Noteholder or to any of their respective Affiliates or Related Funds that is a qualified institutional buyer (as defined in Rule 144A under the Securities Act) and a qualified purchaser (as defined in Section 2(a)(51) of, and Rules 2a51-1, 2a51-2 and 2a51-3 under, the United States Investment Act of 1940).

§ 1 DEFINITIONS

In these Terms and Conditions, the following terms will have the following meaning:

"**Acquired Indebtedness**" means Indebtedness of a Person or any of its subsidiaries existing at the time such Person becomes a subsidiary or is merged into or consolidated with any other Person or that is assumed in connection with the acquisition of assets from such Person and, in each case, not Incurred by such Person in connection with, or in anticipation or contemplation of, such Person becoming a subsidiary or such merger, consolidation or acquisition.

An "**Acquisition of Control**" will be deemed to have occurred if, after the Amendment Effective Date, (irrespective of whether the Board of Directors of the Issuer or the supervisory board (*Aufsichtsrat*) of the Issuer has given its consent thereto),

(a) any person or partnership or persons ("**Relevant Person(s)**") and/or any person or persons acting on behalf of any such Relevant Person(s) acquire,

   (i) Control of the Issuer (unless the acquirer is a credit institution, financial service provider or agent that acquires the relevant Shares only temporarily in a transitory function in connection with the implementation of a capital measure or corporate action); or

   (ii) in one or a series of related transactions, all or substantially all of the assets of the Issuer and its Subsidiaries taken as a whole (other than by way of merger, consolidation or other business combination transaction or an acquisition by a Subsidiary of the Issuer), provided that sales of assets of the Issuer and its Subsidiaries (other than a sale of all or substantially all assets of the Issuer and its Subsidiaries taken as a whole in a single transaction) which comply with § 9(e) (*Limitation on Sales of Assets*) (including sub-paragraph (ii) thereof) shall not constitute or result in an acquisition of all or substantially all of the assets of the Issuer and its Subsidiaries by any person or partnership or persons for purposes of this sub-paragraph (a)(ii); or

(b) a mandatory takeover offer for Shares is required to be made pursuant to applicable law; or

(c) a voluntary or mandatory takeover offer for Shares is published.

"**Additional Amounts**" has the meaning set out in § 8(a) (*Taxes*).

"**Additional Guarantors**" has the meaning set out in § 3(d).

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

"**Affiliate Transaction**" has the meaning set out in § 9(f)(i).

"**Agency Agreement**" means the agency agreement in relation to the Notes between, among others, the Principal Paying Agent, the Issuer and any other parties named therein, as amended, restated or otherwise modified or varied from time to time.

"**Amendment**" has the meaning set out in § 9(d)(ii)(C).

"**Amendment Effective Date**" means the date on which the resolution of the noteholders' meeting held on 21 June 2023 regarding, *inter alios*, the amendment of the Terms and Conditions is implemented in accordance with Section 21 SchVG (*vollzogen im Sinne des § 21 SchVG*).

"**Asset Disposition**" means any direct or indirect sale, lease (other than a lease of property entered into in the ordinary course of business), conveyance, transfer, assignment or any other disposition, or series of related sales, conveyances, transfers, assignments, leases (other than a lease of property entered into in the ordinary course of business) or other dispositions that form part of a common plan by the Issuer or any of its Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction (each referred to for the purposes of this definition as a "**disposition**"), of any shares of Capital Stock of any Subsidiary (other than directors' qualifying shares or shares required by applicable law to be held by a Person other than the Issuer or any of its Subsidiaries) or any other assets of the Issuer or any of its Subsidiaries, other than:

(a) a disposition by a Subsidiary to the Issuer or by the Issuer or a Subsidiary to a Subsidiary;

(b) a disposition of cash or Cash Equivalents;

(c) transactions constituting an Acquisition of Control;

(d) the granting of Liens permitted by § 9(c) (*Limitation on Liens*);

(e) dispositions of receivables in connection with the compromise, settlement or collection thereof or surrender or waiver of contract rights or settlement, release of contract, tort or other claim, in each case, in the ordinary course of business;

(f) sales, transfers or other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture agreements and similar binding agreements; *provided* that any cash or Cash Equivalents received in such sale, transfer or disposition is applied in accordance with § 9(e);

(g) taking by eminent domain, condemnation or any similar action with respect to any property or other assets; provided that any cash or Cash Equivalents received in such action is applied in accordance with § 9(e);

(h) the lease or sublease of any real estate asset in the ordinary course of business;

(i) issuance of equity interests in Corestate Capital France HoldCo SAS or any of its subsidiaries in connection with equity incentive programs for employees and officers and directors;

(j) a Restricted Payment that does not violate § 9(b), a Permitted Investment or any transaction specifically excluded from the definition of Restricted Payment; and

(k) any enforcement action taken in accordance with the Intercreditor Agreement.

"**Average Life**" means, as of the date of determination, with respect to any Indebtedness, the quotient obtained by dividing (i) the sum of the products of the numbers of years from the date of determination to the dates of each successive scheduled principal payment of such Indebtedness multiplied by the amount of such payment by (ii) the sum of all such payments.

"**Board of Directors**" means, with respect to the Issuer or a Subsidiary, as the case may be, the management board (or other body or individual (including a managing director) performing functions similar to any of those performed by a management board or any committee thereof duly authorized to act on behalf of such board (or other body)).

"**Bridge Financing Notes**" means collectively the EUR 10,000,000 senior secured notes issued by the Issuer in 2022 (ISIN: DE000A3LBTZ4) and the EUR 25,000,000 senior secured notes issued by the Issuer in 2023 (ISIN: DE000A3LE0W7) which will be repaid in full with the proceeds of the Super Senior Notes or exchanged into Super Senior Notes on or about the Amendment Effective Date.

"**Business Day**" means any day which is a day (other than a Saturday or a Sunday) on which (i) banks are open for general business in Frankfurt, Luxembourg and London, and (ii) Clearstream Banking AG or any successor clearing system as well as all relevant parts of the real time gross settlement system operated by the Eurosystem (T2) or any successor settlement system are operational to forward payments in euro.

"**Call Redemption Date**" means the date fixed for redemption in the Issuer's notice in accordance with § 5(b), which must be a Business Day.

"**Capitalized Lease Obligation**" means any lease of property for which amounts relating thereto representing the obligation to pay future rental payments that would be recognized as a liability on the Issuer's consolidated balance sheet on the basis of IFRS. The amount of Indebtedness will be, at the time any determination thereof is to be made as determined on the basis of IFRS 16 (Leases), and the stated maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty.

"**Capital Stock**" of any Person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person (but excluding any debt securities convertible into such equity).

"**Cash Equivalents**" means:

(a) securities issued or directly and fully guaranteed or insured by the United States Government or any agency or instrumentality of the United States or a member state of the European Union on 31 December 2003 or Switzerland or any agency or instrumentality thereof (*provided*, however, that the full faith and credit of the United States, such member state of the European Union or Switzerland is pledged in support thereof) having maturities of not more than one year from the date of acquisition;

(b) certificates of deposit, time deposits, Eurodollar time deposits, overnight bank deposits or bankers' acceptances having maturities of not more than one year from the date of acquisition thereof issued by any commercial bank or trust company, *provided* that such bank or trust company (x) has accepted or issued such deposits or acceptances from or to the Issuer or any of its Subsidiaries as of the Amendment Effective Date or (y) has capital, surplus and undivided profits aggregating in excess of EUR 250 million (or the foreign currency equivalent thereof as of the date of such investment) and whose long term debt is rated "Baa3" or higher by Moody's or "BBB-" or higher by S&P or the equivalent rating category of another internationally recognized rating agency;

(c) repurchase obligations with a term of not more than seven days for underlying securities of the types described in sub-paragraphs (a) and (b) of this definition entered into with any bank meeting the qualifications specified in sub-paragraph (b) of this definition;

(d) commercial paper rated at the time of acquisition thereof at least "A-2" or the equivalent thereof by S&P or "P-2" or the equivalent thereof by Moody's, or carrying an equivalent rating by an internationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of investments, and in any case maturing within one year after the date of acquisition thereof; and

(e) interests in any investment company or money market fund which invests 95 per cent. or more of its assets in instruments of the type specified in sub-paragraphs (a) through (d) of this definition.

"**Cashflow Forecast**" means a 12-months rolling monthly cash-flow forecast (including an update on the liquidity report and the liquidity planning and showing any amounts of Trapped Cash).

"**Clearing System**" means Clearstream Banking AG, Frankfurt am Main ("**Clearstream Frankfurt**") and any successor in such capacity.

"**Co-Investment Entities**" means (i) entities holding, directly or indirectly, any real estate assets in which the Issuer or any of its Subsidiaries makes or holds an Investment (or subscribes any equity capital) in order to mitigate the applicability of German real estate transfer tax (or equivalent tax in any other jurisdiction) and (ii) funds established, organized or advised by the Issuer or any of its Subsidiaries; *provided,* in each case, that the direct Investment by the Issuer or its Subsidiaries in any such entity or fund does not exceed 10.1 per cent. of the relevant entity's or fund's Capital Stock or ownership interest.

"**Collateral**" has the meaning set forth in § 3(b).

"**Contingent Obligations**" means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any lease in the ordinary course of business or consistent with past practice, dividend or other obligation that, in each case, does not constitute Indebtedness ("**primary obligations**") of any other Person (the "**primary obligor**"), including any obligation of such Person, whether or not contingent:

(a) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(b) to advance or supply funds:

  (i) for the purchase or payment of any such primary obligation; or

  (ii) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

  (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

"**Control**" means direct or indirect, legal and/or beneficial, ownership of Shares by a person acting alone or as part of a concert (within the meaning of the Luxembourg Takeover Law), carrying an aggregate $33^1/_3$ per cent. or more of the voting rights for the Issuer (or instead a higher percentage that will, in future after a change in law, trigger an obligation to make a mandatory takeover offer).

"**Custodian**" means any bank or other financial institution with which the Noteholder maintains a securities account in respect of any Notes and having an account maintained with the Clearing System and includes Clearstream Frankfurt.

"**Day Count Fraction**" means, in respect of the calculation of an amount of interest on any Note for any period of time (from and including the first day of such period to but excluding the last day of such period) (the "**Interest Calculation Period**"):

(a) if the Interest Calculation Period is equal to or shorter than the Determination Period during which it falls, the number of days in the Interest Calculation Period divided by the product of (i) the number of days in such Determination Period and (ii) the number of Determination Periods normally ending in any year; and

(b) if the Interest Calculation Period is longer than one Determination Period, the sum of:

(i) the number of days in such Interest Calculation Period falling in the Determination Period in which the Interest Calculation Period begins divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Periods normally ending in any year; and

(ii) the number of days in such Interest Calculation Period falling in the next Determination Period divided by the product of (x) the number of days in such Determination Period and (y) the number of Determination Periods normally ending in any year.

"**Default**" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"**Determination Date**" means each 30 June and 31 December.

"**Determination Period**" means each period from and including a Determination Date in any year to but excluding the next Determination Date.

"**Disqualified Stock**" means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

(a) matures or is mandatory redeemable pursuant to a sinking fund obligation or otherwise;

(b) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Issuer or a Subsidiary); or

(c) is redeemable at the option of the holder of the Capital Stock in whole or in part,

in each case on or prior to the date that is 91 days after the earlier of the date (i) of the stated maturity of the Notes or (ii) on which there are no Notes outstanding, *provided*, however, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; *provided* further, however, that any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Issuer to repurchase such Capital Stock upon the occurrence of a change of control or asset disposition (each defined in a substantially identical manner to the corresponding definitions in the Terms and Conditions) shall not constitute Disqualified Stock if the terms of such Capital Stock (and all such securities into which it is convertible or for which it is ratable or exchangeable) provide that the Issuer may not repurchase or redeem any such Capital Stock (and all such securities into which it is convertible or for which it is ratable or exchangeable) pursuant to such provision prior to compliance by the Issuer with the provisions as set forth under § 5(d) (*Mandatory Redemption in Case of an Acquisition of Control*) and § 9(e) (*Limitation on Sales of Assets*) and such repurchase or redemption complies with § 9(b) (*Limitation on Restricted Payments*).

"**Escrowed Proceeds**" means the proceeds from the offering of any debt securities or other Indebtedness paid into escrow accounts with an independent escrow agent on the date of the applicable offering or Incurrence pursuant to escrow arrangements that permit the release of amounts on deposit in such escrow accounts upon satisfaction of certain conditions or the occurrence of certain events. The term "Escrowed Proceeds" shall include any interest earned on the amounts held in escrow.

"**Euro Equivalent**" means, with respect to any monetary amount in a currency other than euro, at any time of determination thereof, the amount of euro obtained by converting such currency other than euro involved in such computation into euro at the spot rate for the purchase of euro with the applicable currency other than euro as published in the Financial Times in the "Currency and Financial Data" section (or if the Financial Times is no longer published, or if such information is no longer available in the Financial Times, such source as may be selected in good faith by the Issuer) on the date of such determination. Except as expressly provided otherwise, whenever it is necessary to determine whether the Issuer or any of its Subsidiaries has complied with any covenant or other provision in the Terms and Conditions or if there has occurred an Event of Default and an amount is expressed in a currency other than the euro, such amount will be treated as the Euro Equivalent determined as of the date such amount is initially determined in such non-euro currency.

"**Event of Default**" has the meaning set out in § 10(a).

"**Excess Cash**" means the aggregate amount by which the Free Liquidity of the Issuer and its Subsidiaries (but excluding any proceeds (cash and Cash Equivalents) from Asset Dispositions held by the Issuer or any of its Subsidiaries) exceeds EUR 25 million on a Relevant Date.

"**Existing Indebtedness**" means all Indebtedness of the Issuer and its Subsidiaries outstanding on the Amendment Effective Date after giving effect to the use of proceeds of the Super Senior Notes (including the full repayment or exchange of the Bridge Financing Notes on or about the Amendment Effective Date).

"**Fair Market Value**" means the value that would be paid by a willing buyer to an unaffiliated willing seller in an arm's length transaction of either party, determined in good faith by the principal financial officer and the principal executive officer of the Issuer or the Board of Directors of the Issuer.

"**FATCA Withholding**" has the meaning set out in § 8(a) (*Taxes*).

"**Free Liquidity**" means the aggregate amount of cash and cash equivalent investments held by any member of the Group *plus* the commitments at the Relevant Date available to the Issuer and its Subsidiaries under any working capital financing arrangements *less* any Trapped Cash (without double counting).

"**Gießen Property**" means the shopping center "Galerie Neustädter Tor", the related car park and related properties.

"**Global Note**" has the meaning set out in § 2(b).

"**Group**" means the Issuer and all of its direct or indirect Subsidiaries from time to time.

"**Guarantee**" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

(a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise); or

(b) entered into for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect the obligee against loss in respect thereof (in whole or in part);

provided, however, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"**Guarantors**" means the Original Guarantors and the Additional Guarantors.

"**Hedging Obligations**" means, with respect to any specified Person, the obligations of such Person under:

(a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;

(b) other agreements or arrangements designed to manage interest rates or interest rate risk; and

(c) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates, or commodity prices.

"**IFRS**" means the International Financial Reporting Standards as issued by the International Standards Board and as adopted by the European Union and in effect on the Amendment Effective Date, or with respect to § 9(g) (*Reports*), as in effect from time to time.

"**Incur**" means issue, create, assume, Guarantee, incur or otherwise become liable for (contingently or otherwise); *provided*, however, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Subsidiary at the time it becomes a Subsidiary; and further *provided* that for purposes of paragraph (i) of § 9(a) (*Limitation on Indebtedness*) the obligation to pay the deferred and unpaid purchase price of property is considered Incurred on the date of signing the related purchase agreement if the delivery and taking title of such property under such purchase agreement is not subject to any conditions within the control of the purchaser and such delivery and taking title of such property will be completed less than six months after the signing of the related purchase agreement. The terms "Incurred", "Incurrence" and "Incurring" have meanings correlative to the foregoing.

"**Indebtedness**"

(a) means, with respect to any Person on any date of determination (without duplication):

(i) the principal of indebtedness for borrowed money;

(ii) the principal of obligations evidenced by bonds, debentures, notes or other similar instruments;

(iii) all reimbursement obligations in respect of letters of credit, bankers' acceptances or other similar instruments (except to the extent such reimbursement obligation relates to a trade payable or other obligation not constituting Indebtedness and such obligation is satisfied within 30 days of Incurrence);

(iv) the principal component of all obligations to pay the deferred and unpaid purchase price of property (except trade payables or similar obligations to trade creditors accrued in the ordinary course of business), where the deferred payment is arranged primarily as a means of raising finance, which purchase price is due more than six months after the date of placing such property in service or taking delivery and title thereto;

(v) Capitalized Lease Obligations;

(vi) the principal component or liquidation preference of all obligations of such Person with respect to the redemption, repayment or other repurchases of any Disqualified Stock or, with respect to any Subsidiary, preferred stock (but excluding any accrued dividends);

(vii) the principal component of Indebtedness of other Persons to the extent Guaranteed by the Issuer or a Subsidiary;

(viii) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of the Issuer or any Subsidiary, whether or not such Indebtedness is assumed by the Issuer or any

Subsidiary; *provided*, however, that the amount of such Indebtedness will be the lesser of (a) the Fair Market Value of such assets at such date of determination and (b) the amount of such Indebtedness of such other Person; and

(ix) to the extent not otherwise included in this definition, net obligations of such Person under Hedging Obligations (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such obligation that would be payable by such Person at such time),

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of the specified Person prepared in accordance with IFRS.

(b) Notwithstanding the other provisions of this definition, in no event shall the following constitute Indebtedness:

(i) Subordinated Shareholder Debt;

(ii) in connection with the purchase by the Issuer or any Subsidiary of any business, any post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; *provided*, however, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 30 days thereafter;

(iii) Liabilities in respect of obligations (other than in connection with the borrowing of money) related to standby letters of credit, performance guarantees, warranty guarantees, advanced payment guarantees, bid guarantees or bonds or surety bonds provided by or at the request of the Issuer or any Subsidiary in the ordinary course of business (whether or not secured) to the extent such letters of credit, guarantees or bonds are not drawn upon or, if and to the extent drawn upon, are honored in accordance with their terms and if, to be reimbursed, are reimbursed no later than 30 days following receipt by such Person of a demand for reimbursement following payment on the letter of credit, guarantee or bond; *provided* that if such amounts are not reimbursed on or prior to 30 days following receipt by such Person of a demand for reimbursement, then such amounts due shall become Indebtedness Incurred on the date of the expiry of such 30-day period;

(iv) Contingent Obligations in the ordinary course of business; or

(v) for the avoidance of doubt, any obligations in respect of workers' compensation claims, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage taxes.

For the avoidance of doubt, obligations in respect of unpaid portions of subscribed Capital Stock in Co-Investment Entities shall not constitute "Indebtedness" to the extent there is no liability of, or recourse to, any member of the Group other than the member of the Group subscribing or holding such subscribed Capital Stock.

"**Independent Financial Advisor**" means an investment banking or accounting firm of international standing or any third-party appraiser of international standing; provided, however, that such firm or appraiser is not an Affiliate of the Issuer.

"**Initial Agreement**" has the meaning set out in § 9(d)(ii)(C).

"**Initial Default**" has the meaning set out in § 10.

"**Initial Lien**" has the meaning set out in § 9(c).

"**Intercreditor Agreement**" means the intercreditor agreement as set forth in Annex 2 (*Intercreditor Agreement*) entered into on or prior to the Amendment Effective Date between the Issuer, the Guarantors, the Noteholders' Representative, the Security Trustee and the other parties named therein, as further amended, restated, replaced or otherwise modified or varied from time to time.

"**Interest Payment Date**" means 30 June and 31 December in each year.

"**Investment**" in any Person means any direct or indirect advance, loan or other extensions of credit (including by way of Guarantee or similar arrangement) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by such Person and all other items that are or would be classified as investments on a balance sheet prepared in accordance with IFRS.

If the Issuer or any Subsidiary sells or otherwise disposes of any Voting Stock of any direct or indirect Subsidiary such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary, the Issuer will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Issuer's Investments in such Subsidiary that were not sold or disposed of.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount or value received in respect of such Investment.

"**Issue Date**" means 28 November 2017.

"**Issuer**" means Corestate Capital Holding S.A.

"**Lien**" means any mortgage, pledge, encumbrance, easement, deposit arrangement, security interest, lien or charge of any other kind of security right *in rem (dingliche Sicherheiten)* (including with respect to any Capitalized Lease Obligation, conditional sales, or other title retention agreement having substantially the same economic effect as any of the foregoing), whether or not filed, recorded or otherwise perfected under applicable law.

"**Management Advances**" means loans or advances made to, or Guarantees with respect to loans or advances made to, directors, officers, employees or consultants of the Issuer or any Subsidiary:

(a) (i) in respect of travel, entertainment or moving related expenses Incurred in the ordinary course of business or (ii) for purposes of funding any such person's purchase of Capital Stock or Subordinated Shareholder Debt (or similar obligations) of the Issuer or its Subsidiaries with (in the case of this sub-clause (ii)) the approval of the Board of Directors of the Issuer;

(b) in respect of moving related expenses Incurred in connection with any closing or consolidation of any facility or office; or

(c) not exceeding EUR 1 million in the aggregate outstanding at any time.

"**Material Subsidiary**" means any of the Guarantors and any other Subsidiary of the Issuer (a) that has total assets as shown in the latest audited non-consolidated annual accounts (or, if such Subsidiary itself prepares consolidated annual accounts, whose consolidated total assets as shown in the latest audited consolidated annual accounts) of such Subsidiary and used for the purpose of preparing the latest audited consolidated annual accounts of the Issuer, of at least 5 per cent. of the total assets as shown in the latest audited consolidated annual accounts of the Issuer and its consolidated subsidiaries or (b) that contributes 5 per cent. or more of the annual revenue of the Group on a consolidated basis (measured on the basis of the aforementioned annual accounts).

"**Maturity Date**" means 31 December 2028.

"**Milestone**" has the meaning set out in § 9(g)(ii).

"**Missed Milestone**" has the meaning set out in § 10(a)(iv)(A).

"**Moody's**" means Moody's Investors Service Inc.

"**Net Cash Proceeds**" means, with respect to any issuance or sale of Capital Stock or Indebtedness, the cash proceeds of such issuance or sale net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, listing fees, discounts or commissions and brokerage, consultant and other fees and charges actually Incurred in connection with such issuance or sale and net of taxes paid or payable as a result of such issuance or sale (after taking into account any available tax credit or deductions and any tax sharing arrangements).

"**Noteholder**" means the holder of a proportional co-ownership interest or similar right in the Global Note.

"**Noteholders' Representative**" has the meaning set out in § 15(e)(i).

"**Notes**" and "**Note**" has the meaning set out in § 2(a).

"**Note Guarantees**" has the meaning set out in § 3(d).

"**Officer**" means, with respect to any Person, (i) any managing director, director or member of the management board or senior executive (x) of such Person or (y) if such Person is owned or managed by a single entity, of such entity, or (ii) any other individual designated as an "Officer" for the purposes of the Terms and Conditions by the Board of Directors of such Person.

"**Officer's Request Certificate**" means, with respect to any Person, a certificate signed by an Officer of such Person.

"**Opinion of Counsel**" means a written opinion from legal counsel reasonably satisfactory to the intended recipient under the Terms and Conditions. The counsel may be an employee of or counsel to the Issuer.

"**Original Guarantors**" means:

(a) HFS Helvetic Financial Services AG;

(b) CORESTATE CAPITAL AG;

(c) Corestate Capital Group GmbH;

(d) HL Investment Beteiligungs GmbH;

(e) HANNOVER LEASING Belgien Beteiligungs GmbH & Co. KG;

(f) Delta Vermietungsgesellschaft mbH;

(g) Corestate Capital Advisors GmbH;

(h) Tempelhof Twins HoldCo S.à r.l.;

(i) HANNOVER LEASING Private Invest Beteiligungs GmbH;

(j) HANNOVER LEASING Beteiligungs GmbH & Co. KG;

(k) ORION Verwaltungsgesellschaft mbH & Co. Beteiligungs KG;

(l) CRM Students Ltd;

(m) Bego PropCo I S.L.;

(n) Corestate Capital Services GmbH;

(o) Kera Verwaltungsgesellschaft mbH;

(p) Thorfin Invest S.L. (in future Gabriela PropCo S.L.);

(q) Plutos HoldCo S.à r.l.;

(r) Echo HoldCo S.à r.l.;

(s) Corestate Capital France HoldCo SAS;

(t) Gabriela HoldCo S.à r.l.;

(u) Bego HoldCo S.à r.l.; and

(v) Ginova AIF S.à r.l.

"**Paying Agents**" has the meaning set out in § 11(a).

"**Payment Default**" has the meaning set out in § 10(a)(v)(A).

"**Permitted Acquisition**" means:

(a) any acquisition of a Related Business, located within an EU member state, the United Kingdom and/or Switzerland, made after any and all obligations under the Super Senior Notes have been satisfied and discharged in full, and

(b) any acquisition of real estate or special purpose vehicles organized and existing for the sole purpose of holding real estate (and activities ancillary and related thereto), *provided that* such real estate is located within an EU member state, the United Kingdom and/or Switzerland,

provided that, in each case of sub-paragraph (a) and (b), the aggregate gross consideration for all Permitted Acquisitions made pursuant to the relevant sub-paragraph in reliance on sub-paragraphs (b) and (m) of the definition of "*Permitted Investment*" does not exceed EUR 10 million.

"**Permitted Collateral Liens**" means:

(a) Liens on the Collateral to secure the Indebtedness under the Secured Notes, including any interest or other amounts paid from time to time on the Secured Notes in accordance with the Terms and Conditions, the terms and conditions of the Super Senior Notes or the terms and conditions of the Reinstated 2023 Notes, as applicable, by increasing the principal amount of the Secured Notes (and any guarantees guaranteeing such Secured Notes, including the Note Guarantees) and any Refinancing Indebtedness in respect thereof, including any interest or other amounts paid from time to time on such Refinancing Indebtedness in accordance with the terms and conditions of such Refinancing Indebtedness by increasing the principal amount of such Refinancing Indebtedness, provided that Indebtedness under the Super Senior Notes, and any Refinancing Indebtedness in respect thereof, including any interest or other amounts paid from time to time on such Refinancing Indebtedness in accordance with the terms and conditions of such Refinancing Indebtedness by increasing the principal amount of such Refinancing Indebtedness, may be granted the benefit of priority rights on the proceeds of the enforcement on the Collateral; and provided further that each of the parties to the instruments governing such Collateral and such Indebtedness under the Secured Notes, and any Refinancing Indebtedness in respect thereof, will have entered into, and/or be bound by, the Intercreditor Agreement; and

(b) Liens described in sub-paragraphs (b) (to the extent not incurred as a result of a default) and (f) of the definition of "*Permitted Liens*" and that, in each case, would not materially interfere with the ability of the Security Trustee to enforce any Lien over the Collateral.

"**Permitted Debt**" has the meaning set out in § 9(a)(ii).

"**Permitted Investment**" means any Investment by the Issuer or any Subsidiary:

(a) in the Issuer or a Subsidiary;

(b) in a Person, if as a result of such Investment, such other Person becomes a Subsidiary or is merged or consolidated with or into, or transfers or conveys all or substantially all its assets to, the Issuer or a Subsidiary; *provided*, however, that such Investment constitutes or is part of a Permitted Acquisition;

(c) in existence on the Amendment Effective Date or made pursuant to legally binding commitments in existence on, the Amendment Effective Date, and any extension, modification or renewal of any such Investments, but only to the extent not involving additional Investments;

(d) in the Secured Notes;

(e) in Guarantees of Indebtedness permitted to be Incurred by § 9(a) (*Limitation on Indebtedness*) and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements in the ordinary course of business;

(f) in cash and Cash Equivalents;

(g) as a result of or retained in connection with an asset disposition permitted under, or made in compliance with, § 9(e) (*Limitation on Sale of Assets*) to the extent such Investments are non-cash proceeds or deemed cash proceeds under § 9(e) (*Limitation on Sale of Assets*);

(h) any acquisition of assets or Capital Stock solely in exchange for the issuance of Capital Stock (other than Disqualified Stock) of the Issuer or Subordinated Shareholder Debt;

(i) Management Advances;

(j) when taken together with all other Investments made pursuant to this sub-paragraph (j) and then outstanding, in an aggregate amount at the time of such Investment not to exceed EUR 10 million; *provided* that if an Investment is made pursuant to this sub-paragraph (j) in a Person that is not a Subsidiary and such Person subsequently becomes a Subsidiary, such Investment shall thereafter be deemed to have been made pursuant to sub-paragraph (a) or sub-paragraph (b) of the definition of "*Permitted Investment*" and not this sub-paragraph;

(k) in connection with any customary cash management or cash pooling arrangements entered into in the ordinary course of business (as determined in good faith by the Board of Directors or an Officer of the Issuer);

(l) in Co-Investment Entities not exceeding EUR 5 million in any calendar year; *provided* that to the extent the purchase or subscription price for the subscription of equity interests in Co-Investment Entities is deferred, the subscription of such equity interests shall not constitute an "*Investment*" unless, until and only to the extent that the purchase or subscription price is actually paid (as long as there is no liability of or recourse to, any member of the Group other than the member of the Group making the Investment);

(m) in joint ventures or any other minority participations or shares in a Related Business located in an EU member state, the United Kingdom and/or Switzerland; *provided*, however, that such Investment is part of a Permitted Acquisition;

(n) in LAUREA Verwaltungsgesellschaft mbH after such entity ceases to be a Subsidiary of the Issuer;

(o) acquired after the Amendment Effective Date as a result of the acquisition by the Issuer or any Subsidiary of another Person, including by way of a merger, amalgamation or consolidation with or into the Issuer or any of its Subsidiaries in a transaction that is not prohibited by the Terms and Conditions to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(p) lease, utilities and similar deposits made in the ordinary course of business; and

(q) in receivables owing to the Issuer or any Subsidiary created in the ordinary course of business.

"**Permitted Liens**" means:

(a) Liens to secure the performance of statutory obligations, trade contracts, insurance, surety or appeal bonds, workers compensation obligations, leases (including, without limitation, statutory and common law landlord's liens), performance bonds, surety and appeal bonds or other obligations of a like nature (other than for the payment of Indebtedness) incurred in the ordinary course of business (including Liens to secure letters of credit issued to assure payment of such obligations), Liens under workmen's compensation laws, unemployment insurance laws, under social security laws or similar legislation, or insurance-related obligations, or in connection with bids, tenders, completion guarantees, contracts (other than for the payment of Indebtedness), warranty obligations or leases to which the Issuer or a Subsidiary is a party, or to secure public or statutory obligations of the Issuer or a Subsidiary or deposits of cash or Cash Equivalents to secure surety, judgment, performance or appeal bonds (or other similar bonds, instruments or obligations), in each case, to which the Issuer or any of its Subsidiaries is a party;

(b) Liens imposed by mandatory law;

(c) Liens for taxes, assessments or other governmental charges not yet due or payable;

(d) Liens (i) in favor of issuers of surety or performance bonds or letters of credit or bankers' acceptances issued pursuant to the request of and for the account of the Issuer or a Subsidiary in the ordinary course of its business; *provided*, *however*, that such letters of credit do not constitute Indebtedness or (ii) to secure Indebtedness permitted to be incurred under sub-clause (iv) of § 9(a)(ii)(H);

(e) judgment Liens not giving rise to an Event of Default so long as any appropriate legal proceedings which may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceedings may be initiated has not expired;

(f) Liens arising solely by virtue of banks' or financial institutions' standard business terms and conditions;

(g) Liens existing on the Amendment Effective Date (other than in respect of the Secured Notes and the Note Guarantees);

(h) Liens on property or shares of stock of a Person at the time such Person becomes a Subsidiary; *provided*, however, that such Liens are not created, Incurred or assumed in connection with, or in contemplation of, such other Person becoming a Subsidiary; *provided* further, however, that any such Lien may not extend to any other property owned by the Issuer or any Subsidiary;

(i) Liens on property at the time the Issuer or a Subsidiary acquired the property, including any acquisition by means of a merger or consolidation with or into the Issuer or any Subsidiary; *provided*, however, that such Liens are not created, Incurred or assumed in connection with, or in contemplation of, such acquisition; *provided* further, however, that such Liens may not extend to any other property owned by the Issuer or any Subsidiary;

(j) Liens arising in connection with conditional sale or retention of title arrangements (*Eigentumsvorbehalt*) or similar arrangements entered into in the ordinary course of business;

(k) Liens securing Refinancing Indebtedness Incurred to refinance Indebtedness that was previously so secured, *provided*, *however*, that any such Lien is limited to all or part of the same collateral that secured the Indebtedness being refinanced and shall rank the same priority as the Indebtedness being refinanced and *provided further* that the aggregate principal amount of such Refinancing Indebtedness does not exceed the refinanced Indebtedness;

(l) Liens in favor of the Issuer or any Guarantor or, as long as such Lien does not secure any obligation of the Issuer or a Guarantor, any Subsidiary that is not a Guarantor;

(m) Liens created for the benefit of (or to secure) the Secured Notes (or any Note Guarantee);

(n) Liens on Capital Stock or other securities or assets of any Subsidiary that secure Indebtedness of such Subsidiary;

(o) Liens on assets of the Issuer and its Subsidiaries with respect to obligations not to exceed EUR 3 million at any time outstanding;

(p) Liens granted in connection with any customary cash management or cash pooling entered or netting or setting-off arrangements into in the ordinary course of business (as determined in good faith by the Issuer's Board of Directors);

(q) survey exceptions, encumbrances, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property or Liens incidental to the conduct of the business of such Person or to the ownership of its properties which were not Incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(r) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Issuer or any Subsidiary has easement rights or on any leased property and subordination or similar arrangements relating thereto; (ii) any condemnation or eminent domain proceedings affecting any real property; and (iii) for the avoidance of doubt, leases or subleases of any real estate asset in the ordinary course of business;

(s) Liens on Escrowed Proceeds for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters or arrangers thereof) or on cash set aside at the time of the incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose;

(t) Liens on assets or property of a Subsidiary that is not a Guarantor securing Indebtedness of such Subsidiary that is not a Guarantor; and

(u) Liens on the Gießen Property to secure Indebtedness of Ginova HoldCo S.à. r.l. and/or Ginova PropCo S.à. r.l. Incurred pursuant to § 9(a)(ii)(L).

"**Permitted Payments**" has the meaning set out in § 9(b)(ii).

"**Permitted Reorganization**" means any amalgamation, demerger, merger, voluntary liquidation, consolidation, reorganization, winding up, corporate reconstruction or sale or transfer of assets involving the Issuer or any Subsidiary (a "**Reorganization**") that is made on a solvent basis; *provided* always that (i) any payments or assets distributed in connection with such Reorganization remain within the Issuer and the Subsidiaries; (ii) if any Collateral is released in connection with such Reorganization in accordance with the security release provisions of the Terms and Conditions, Liens must be granted prior to (or to the extent not possible, promptly following) completion of such Reorganization such that the assets pledged as Collateral following the Reorganization are equivalent to the pre-existing Collateral; and (iii) if any Note Guarantees are released in connection with such Reorganization in accordance with the Guarantee release provisions of the Terms and Conditions, Note Guarantees must be provided prior to (or to the extent not possible, promptly following) completion of such Reorganization such that the Note Guarantees in place following the Reorganization are equivalent to the pre-existing Note Guarantees, and provided further that none of (ii) or (iii) shall result in any restart of any hardening period.

"**Person**" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision thereof or any other entity.

"**Principal Paying Agent**" has the meaning set out in § 11(a).

"**Projected Interest**" has the meaning set out in § 6(b).

"**Qualified Majority**" has the meaning set out in § 15(b).

"**Refinance**" means refinance, refund, exchange, replace, renew, repay, modify, restate, defer, substitute, amend, extend, supplement, reissue, resell, extend or increase (including pursuant to any defeasance or discharge mechanism) and the terms "refinances", "refinanced" and "refinancing" as used for any purpose in the Terms and Conditions shall have a correlative meaning.

"**Refinancing Agreement**" has the meaning set out in § 9(d)(ii)(C).

"**Refinancing Indebtedness**" means Indebtedness that refinances any Indebtedness Incurred or existing as permitted under and in compliance with the Terms and Conditions; *provided*, however, that:

(a) the Refinancing Indebtedness has a Stated Maturity no earlier than the Stated Maturity of the Indebtedness being refinanced;

(b) the Refinancing Indebtedness has an Average Life at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the Average Life of the Indebtedness being refinanced;

(c) such Refinancing Indebtedness has an aggregate principal amount (or, if issued with original issue discount, an aggregate issue price) that is equal to or less than the aggregate principal amount (or, if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being refinanced (plus all accrued interest and the amount of all fees and expenses, including any premiums incurred in connection with such refinancing);

(d) if the Indebtedness being refinanced is subordinated in right of payment to the Notes or any Note Guarantee, such Refinancing Indebtedness is subordinated in right of payment to the Notes or such Note Guarantee, as the case may be, on terms at least as favorable to the Noteholders as those contained in the documentation governing the Indebtedness being refinanced; and

(e) if the Indebtedness being refinanced is Indebtedness of the Issuer or a Guarantor, the Refinancing Indebtedness may not be Indebtedness of or Guaranteed by a Subsidiary that is not a Guarantor;

provided that in each case the net proceeds from the Incurrence of any Refinancing Indebtedness (or, in case of an exchange of Indebtedness, the principal amount of the Indebtedness being refinanced by the Refinancing Indebtedness) shall not be lower than 95 per cent. of the principal amount of such Refinancing Indebtedness.

"**Reinstated 2023 Notes**" means the notes issued by the Issuer in an original aggregate principal amount of EUR 300,000,000 (ISIN: DE000A19YDA9) which has been written down to EUR 64,816,710.00 in aggregate principal amount as of the Amendment Effective Date, and any interest or other amounts paid from time to time thereon in accordance with the terms and conditions governing such notes by increasing their principal amount.

"**Reinstated Senior Notes**" means the Notes and the Reinstated 2023 Notes.

"**Related Business**" means any of the businesses engaged in by the Issuer and its Subsidiaries on the Amendment Effective Date, and any services, activities or businesses incidental or directly related or similar thereto, or any line of business or business activity that is a reasonable extension, development, application or expansion thereof or ancillary thereto (including by way of geography or product or service line).

"**Related Fund**" means (i) in relation to an investment manager, adviser or sub-adviser of any fund, the funds managed, advised or sub-advised by it, and (ii) in relation to any fund (the "**First Fund**"), (x) a fund which is managed or advised by the same investment manager or investment adviser as the First Fund or (y) if a fund is managed by a different investment manager or investment adviser as the First Fund, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the First Fund.

"**Related Person**" means, in respect of any Person:

(a) any controlling equity holder, majority (or more) owned subsidiary or partner or member of such Person;

(b) in the case of an individual, any spouse, family member or relative of such individual, any trust or partnership for the benefit of one or more of such individual and any such spouse, family member or relative, or the estate, executor, administrator, committee or beneficiaries of any thereof;

(c) any trust, corporation, partnership or other Person for which one or more Related Persons of any thereof constitute the beneficiaries, stockholders, partners or owners thereof, or Persons beneficially holding in the aggregate a majority (or more) controlling interest therein; or

(d) any investment fund or vehicle managed, sponsored or advised by such Person or any successor thereto, or by any Affiliate of such Person or any such successor.

"**Relevant Cure Period**" means a cure period of at least 60 days or such longer period as instructed by Noteholders of at least 50 per cent. in aggregate principal amount of the Notes then outstanding following a sounding (without a noteholders' meeting or voting without meeting in accordance with § 15 (*Amendments to the Terms and Conditions by Resolution of the Noteholders; Noteholders' Representative*) being required) with the Noteholders to be conducted by the Noteholders' Representative.

"**Relevant Date**" means, with respect to an Interest Payment Date, the 30th day preceding such Interest Payment Date.

"**Relevant Period**" means, with respect to any Interest Payment Date, the period beginning on (and excluding) the Relevant Date in respect of the immediately preceding Interest Payment Date (or, in case of the first Interest

Payment Date, 31 July 2023) and ending on (and including) the Relevant Date in respect of such Interest Payment Date.

"**Relevant Proceeds**" means, with respect to any Interest Payment Date, the sum of (without double counting):

(a) any cash proceeds received by the Issuer or any of its Subsidiaries during the Relevant Period (including any cash payments received by way of deferred payment of principal pursuant to a note or instalment receivable or otherwise and net proceeds from the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring person of Indebtedness or other obligations relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) resulting from an Asset Disposition; *less*

(b) any expenses reasonably incurred in connection with such Asset Disposition; *less*

(c) any taxes paid or payable (including taxes reasonably estimated to be actually payable) or accrued as liability in connection with such Asset Disposition or in connection with any upstream payments of any such proceeds from any Subsidiary to the Issuer; *less*

(d) all payments required to be made to minority interest holders in subsidiaries or joint ventures as a result of such Asset Disposition; *less*

(e) all payments required to be made

(i) on any Indebtedness (other than the Notes, the Super Senior Notes and the Reinstated 2023 Notes) which is secured by any asset subject to such Asset Disposition in accordance with the terms of the Lien on such asset or such Indebtedness (or which must be repaid by the terms of such lien or such Indebtedness in order to obtain a necessary consent to such Asset Disposition), and

(ii) pursuant to applicable law out of the proceeds such Asset Disposition;

less

(f) the portion of the proceeds from such Asset Disposition constituting Trapped Cash; *less*

(g) in the case of the Interest Payment Dates falling on or before 31 December 2024 only, an amount equal to the amount by which the Free Liquidity of the Issuer and its Subsidiaries on the Relevant Date is less than EUR 25 million; *plus*

(h) Excess Cash (but excluding any Unapplied Relevant Proceeds); *plus*

(i) any Unapplied Relevant Proceeds (as defined in § 6(b) (*Payments from Relevant Proceeds*)).

"**Relevant Proceeds Waterfall**" has the meaning set out in § 6(a).

"**Reporting Date**" has the meaning set out in § 15(e)(vii).

"**Restricted Investment**" means any Investment other than a Permitted Investment.

"**Restricted Payment**" means:

(a) the declaration or payment of any dividend or any distribution (whether made in cash, securities or other property) by the Issuer or any Subsidiary on or in respect of its Capital Stock (including any payment in connection with any merger or consolidation involving the Issuer or any of its Subsidiaries) other than:

(i) dividends or distributions payable solely in Capital Stock of the Issuer (other than Disqualified Stock) or in options, warrants or other rights to purchase such Capital Stock of the Issuer and dividends or distributions payable solely in Subordinated Shareholder Debt; and

(ii) dividends or distributions payable to the Issuer or a Subsidiary and, if the Subsidiary paying such dividends or distributions is not a Wholly Owned Subsidiary, to its other holders of common Capital Stock on no more than a *pro rata* basis;

(b) the purchase, redemption or other acquisition for value of any Capital Stock (including any payment in connection with any merger or consolidation involving the Issuer or any of its Subsidiaries) of the Issuer or any direct or indirect parent of the Issuer held by Persons other than the Issuer or a Subsidiary (other than in exchange for Capital Stock of the Issuer (other than Disqualified Stock));

(c) the purchase, repurchase, redemption, defeasance or other acquisition for value, prior to scheduled maturity or scheduled repayment of any Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee (excluding any intercompany Indebtedness between or among the Issuer and its Subsidiaries), other than the purchase, repurchase, redemption, defeasance or other acquisition of any Indebtedness of the Issuer or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee purchased in anticipation of satisfying a sinking fund obligation, principal instalment or final maturity, in each case due within one year of the date of such purchase, repurchase, redemption, defeasance, other acquisition or scheduled repayment;

(d) any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Subordinated Shareholder Debt; or

(e) the making of any Restricted Investment in any Person.

The amount of all Restricted Payments (other than cash) shall be the Fair Market Value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Issuer or such Subsidiary, as the case may be, pursuant to such Restricted Payment. The determination of the Fair Market Value shall be determined conclusively by the Board of Directors of the Issuer acting in good faith.

"**S&P**" means Standard & Poor's Ratings Group, Inc.

"**SchVG**" has the meaning set out in § 15(a).

"**Secured Notes**" means the Notes, the Reinstated 2023 Notes and the Super Senior Notes.

"**Security Documents**" means any agreement or document that provides for a Lien over any Collateral for the benefit of the Noteholders in each case as amended or supplemented from time to time.

"**Security Trustee**" means Global Loan Agency Services GmbH, as security trustee pursuant to the Intercreditor Agreement or any successor or replacement security trustee acting in such capacity.

"**Shares**" means the dematerialised ordinary share of the Issuer.

"**Stated Maturity**" means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

"**Subordinated Indebtedness**" means, with respect to any person, any Indebtedness (whether outstanding on the Amendment Effective Date or thereafter Incurred) which is expressly subordinated in right of payment to the Notes pursuant to a written agreement.

"**Subordinated Shareholder Debt**" means any Indebtedness provided to the Issuer held by any shareholder in exchange for or pursuant to any security, instrument or agreement other than Capital Stock, together with any such security, instrument or agreement and any other security or instrument other than Capital Stock issued in payment of any obligation under any Subordinated Shareholder Debt; *provided* that such Subordinated Shareholder Debt:

(a) does not (including upon the happening of any event) mature or require any amortization or other payment of principal prior to the first anniversary of the maturity of the Notes (other than through conversion or exchange of any such security or instrument for Capital Stock of the Issuer (other than Disqualified Stock) or for any other security or instrument meeting the requirements of this definition);

(b) does not (including upon the happening of any event) require the payment of cash interest prior to the first anniversary of the final maturity of the Notes;

(c) does not (including upon the happening of any event) provide for the acceleration of its maturity nor confers any right (including upon the happening of any event) to declare a default or event of default or take any enforcement action, in each case, prior to the first anniversary of the final maturity of the Notes;

(d) is not secured by a Lien on any assets of the Issuer or a Subsidiary and is not Guaranteed by any Subsidiary of the Issuer;

(e) is subordinated in right of payment to the prior payment in full in cash of the Notes in the event of any default, bankruptcy, reorganization, liquidation, winding up or other disposition of assets of the Issuer;

(f) does not (including upon the happening of an event) constitute Voting Stock; and

(g) is not (including upon the happening of any event) mandatorily convertible or exchangeable, or convertible or exchangeable at the option of the holder, in whole or in part, prior to the date on which the Notes mature other than into or for Capital Stock (other than Disqualified Stock) of the Issuer;

provided, however, that any event or circumstance that results in such Indebtedness ceasing to qualify as a Subordinated Shareholder Debt, such Indebtedness shall constitute an Incurrence of such Indebtedness by the Issuer which Incurrence will only be permitted to the extent permitted under the provision set forth under § 9(a) (*Limitation on Indebtedness*), and any and all Restricted Payments made through the use of the net proceeds from the Incurrence of such Indebtedness since the date of the original issuance of such Subordinated Shareholder Debt shall constitute new Restricted Payments that are deemed to have been made after the date of the original issuance of such Subordinated Shareholder Debt.

"**Subsidiary**" means, with respect to the Issuer:

(a) any corporation, association or other business entity of which more than 50 per cent. of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election or appointment of directors or managers of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by the Issuer or one or more of the other Subsidiaries of the Issuer (or a combination thereof); and

(b) any partnership or limited liability company of which (i) more than 50 per cent. of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by the Issuer or one or more of the other Subsidiaries of the Issuer or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (ii) the Issuer or any Subsidiary of the Issuer is a controlling general partner or otherwise controls such entity.

"**Successor Company**" has the meaning set out in § 9(h)(i)(A).

"**Super Senior Notes**" means EUR 37,000,000 in aggregate principal amount of senior secured notes issued by the Issuer on or about the Amendment Effective Date, and any interest or other amounts paid from time to time thereon in accordance with the terms and conditions governing such notes by increasing their outstanding principal amount.

"**Swiss Federal Tax Administration**" means the tax authorities referred to in article 34 of the Swiss Withholding Tax Act.

"**Swiss Withholding Tax**" means taxes imposed under the Swiss Withholding Tax Act.

"**Swiss Withholding Tax Act**" means the Swiss Federal Act on the Withholding Tax of 13 October 1965 (*Bundesgesetz über die Verrechnungssteuer*), together with the related ordinances, regulations and guidelines, all as amended and applicable from time to time.

"**Taxes**" has the meaning set out in § 8(a) (*Taxes*).

"**Terms and Conditions**" means these terms and conditions of the Notes.

"**Trapped Cash**" means the aggregate amount of cash and Cash Equivalents held by the Issuer or any of its Subsidiaries if and to the extent the treatment of such amounts as Free Liquidity or as Asset Disposition proceeds pursuant to sub-paragraph (a) of the definition of "*Relevant Proceeds*" and the corresponding application of such amounts as per the Relevant Proceeds Waterfall (including any upstreaming of cash or cash equivalents by any Subsidiary of the Issuer to the Issuer for application as per the Relevant Proceeds Waterfall), would (if not deducted as Trapped Cash as per the definition of Free Liquidity or pursuant to sub-paragraph (f) of the definition of "*Relevant Proceeds*") (i) violate any applicable financial assistance or corporate benefit laws, other mandatory laws of general application, any applicable regulatory requirements or any contractual obligations to which any Subsidiary of the Issuer is subject to and which have not been entered into in violation of § 9(d), (ii) result in personal liability of the directors or officers of the Issuer or any of its Subsidiaries or (iii) result in tax or other cost to the Issuer or any of its Subsidiaries in excess of 10 per cent. of the relevant amounts treated as Free Liquidity or as Asset Disposition proceeds with respect to the Issuer or, as applicable, such Subsidiary, provided always that the Issuer and its Subsidiaries shall use its best efforts to overcome any restrictions and/or minimize any costs of such prepayment or transfer.

"**Trapped Cash Validation**" has the meaning set out in § 9(p).

"**Unapplied Relevant Proceeds**" has the meaning set out in § 6(b).

"**Unapplied Relevant Proceeds Account**" has the meaning set out in § 6(b).

"**United States**" means the United States of America (including the states thereof and the District of Columbia) and its possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).

"**Voting Stock**" of a corporation or company means all classes of Capital Stock of such corporation or company then outstanding and normally entitled to vote in the election of directors.

"**Wholly Owned Subsidiary**" means a Subsidiary, all of the Capital Stock of which (other than directors' qualifying shares or shares required by any applicable law or regulation to be held by a Person other than the Issuer or another Wholly Owned Subsidiary) is owned by the Issuer or another Wholly Owned Subsidiary.

In addition, in these Terms and Conditions, where it relates to the Issuer or any member of the Group whose centre of main interests within the meaning of Regulation EU 2015/848 of the Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) (the "**Insolvency Regulation**") is in Luxembourg and/or whose place of the central administration (*siège de l'administration centrale*) within the meaning of the Luxembourg law of 10 August 1915 on commercial companies, as amended, is in Luxembourg, and unless the contrary intention appears, a reference to:

(a) judicial proceedings to be adjudicated bankrupt or insolvent, insolvency proceedings, winding up, reorganisation, assignment or arrangement includes bankruptcy (*faillite*), insolvency, voluntary dissolution or liquidation (*dissolution* ou *liquidation volontaire*), court ordered liquidation (*liquidation judiciaire*) or reorganisation, composition with creditors (*concordat préventif de faillite*), reprieve from payment (*sursis de paiement*), controlled management (*gestion contrôlée*), fraudulent conveyance (*action pauliana*), general settlement with creditors, reorganisation or similar laws affecting the rights of creditors generally;

(b) a liquidator, receiver, an administrative receiver, administrator, compulsory manager includes a *juge délégué* commissaire, *juge-commissaire, administrateur provisoire, liquidateur* or a curateur;

(c) a lien or security interest includes any hypothèque, nantissement, gage, privilège, sûreté réelle, droit de rétention, and any type of security in rem (*sûreté réelle*) or agreement or arrangement having a similar effect and any transfer of title by way of security;

(d) a person being unable to pay its debts means that person being in a state of cessation of payments (*cessation de paiements*) and having lost its commercial creditworthiness (*ébranlement de crédit*);

(e) a director, manager or officer includes a gérant and an administrateur or, in case of a partnership, the general partner (*associé commandité*) of such entity and any manager of such general partner.

"**Withdrawn Unapplied Relevant Proceeds**" has the meaning set out in § 6(b).

§ 2 FORM AND DENOMINATION

(a) The Notes were issued by the Issuer on the Issue Date in the original aggregate principal amount of

EUR 200,000,000

(in words: Euro two-hundred million)

divided into notes in bearer form in a denomination of EUR 100,000 each (the "**Notes**" and each a "**Note**", which terms shall include any interest or other amounts paid from time to time thereon in accordance with the Terms and Conditions by increasing the principal amount thereof) and as of the Amendment Effective Date the aggregate principal amount of all Notes is EUR 40,683,288.31 and the principal amount of each individual Note is EUR 21,605.57.

(b) The Notes are represented by a global Note (the "**Global Note**") without interest coupons. The Global Note will be signed manually by one or more authorised signatories of the Issuer and will be authenticated by or on behalf of the Principal Paying Agent.

Definitive Notes and interest coupons will not be issued. The Noteholders will have no right to require the issue of definitive Notes or interest coupons.

The Global Note will be deposited with the Clearing System until the Issuer has satisfied and discharged all its obligations under the Notes. Copies of the Global Note are available for each Noteholder at the Principal Paying Agent.

(c) The Noteholders will receive proportional co-ownership interests or similar rights in the Global Note, which are transferable in accordance with applicable law and the rules and regulations of the Clearing System.

(d) Pursuant to the book-entry registration agreement between the Issuer and Clearstream Frankfurt, the Issuer has appointed Clearstream Frankfurt as its book-entry registrar in respect of the Notes and Clearstream Frankfurt has agreed to maintain a register showing the aggregate number of the Notes represented by the Global Note under the name of Clearstream Frankfurt, and Clearstream Frankfurt has agreed, as agent of the Issuer, to maintain records of the Notes credited to the accounts of the account holders of Clearstream Frankfurt for the benefit of the holders of the co-ownership interests in the Notes represented by the Global Note, and the Issuer and Clearstream Frankfurt have agreed, for the benefit of the holders of co-ownership interests in the Notes, that the actual number of Notes from time to time will be evidenced by the records of Clearstream Frankfurt.

§ 3 STATUS OF THE NOTES; COLLATERAL; NOTE GUARANTEES

(a) *Status*. The Notes constitute unsubordinated and, in accordance with § 3(b) below, secured obligations of the Issuer ranking *pari passu* among themselves and, in the event of the dissolution, liquidation or insolvency of the Issuer or any proceeding to avoid insolvency of the Issuer, *pari passu* with all other present and future unsubordinated and secured obligations of the Issuer, and save for such obligations which may be preferred by applicable law.

(b) *Collateral*. On the Amendment Effective Date, the payment obligations of the Issuer under the Notes and the payment obligations of the Guarantors under the Note Guarantees will be secured by Liens over the collateral as set forth in Annex 1 hereto (the "**Collateral**"), in each case subject to and in accordance with the Intercreditor Agreement.

The Collateral shall be granted in favor of the Security Trustee for the benefit of the Noteholders and neither the Noteholders' Representative nor any Noteholder may directly and independently enforce or otherwise realize (*verwerten*) the Collateral. The Collateral also secures the payment obligations of the Issuer under the Reinstated 2023 Notes, the Super Senior Notes and the payment obligations of the Guarantors under the Note Guarantees as set out in the Intercreditor Agreement. The rights and duties of the Security Trustee and the relationship of the holders of the Secured Notes, in each case represented by their respective noteholders' representative, with regards to the Collateral are governed by the Intercreditor Agreement to which the Noteholders' Representative is a party.

Any rights of the Noteholders under the Intercreditor Agreement are exercised by the Noteholders' Representative with effect for and against all Noteholders.

The Collateral will be held, administered and enforced by the Security Trustee in accordance with the Intercreditor Agreement for the benefit of, *inter alios*, the holders of the Super Senior Notes, the holders of the Reinstated 2023 Notes and the Noteholders. Upon an enforcement of the Collateral in whole or in part, all net proceeds from such enforcement shall be applied in accordance with relevant provisions of the Intercreditor Agreement, which provides for a priority of the claims of the holders of the Super Senior Notes over the claims of the Noteholders and the holders of the Reinstated 2023 Notes with respect to such proceeds.

(c) *Release of Collateral*. Pursuant to the Terms and Conditions and in accordance with the terms of the Intercreditor Agreement, the Security Trustee shall be irrevocably authorized to release any Collateral (at the cost of the Issuer and without any consent, sanction, authority or further confirmation from any Noteholder) (i) in connection with any sale, assignment, transfer, conveyance or other disposition of such Collateral to a Person that is not (either before or after giving effect to such transaction) the Issuer or any of the Subsidiaries, if the sale, assignment, transfer, conveyance or other disposition does not violate § 9(e) (*Limitation on Sales of Assets*), (ii) in connection with a Permitted Reorganization, (iii) if the obligations under the Secured Notes have been satisfied in full (including upon redemption in full) or (iv) in accordance with an enforcement action in accordance with the Intercreditor Agreement.

(d) *Note Guarantees*. With effect of and following the Amendment Effective Date, the Original Guarantors, jointly and severally, guarantee by way of an independent payment obligation (*selbständiges Zahlungsversprechen*) unconditionally and irrevocably, the full and punctual payment of all amounts payable under the Notes when due. The Issuer may from time to time be required to procure from certain of its Subsidiaries (each an "**Additional Guarantor**") the issuance of additional guarantees pursuant to § 9(i) (*Future Guarantors*).

The relevant guarantees securing the Secured Notes (the "**Note Guarantees**") constitute (or will constitute) direct and unsubordinated obligations of the Guarantors, ranking at least *pari passu* with all other present and future unsubordinated obligations of the Guarantors, unless such obligations are accorded priority under mandatory provisions of statutory law. The obligations under the Note Guarantees may be limited as necessary to recognize certain defenses generally available to guarantors (including those that relate to general statutory limitations, capital maintenance, corporate benefit, fraudulent preference, financial assistance or thin-capitalization rules or other similar laws or regulations (or analogous restrictions) of any applicable jurisdiction).

The Note Guarantees shall be granted solely to the Security Trustee pursuant to the Intercreditor Agreement and shall not create any direct claims of the Noteholders but shall be held, administered and enforced by the Security Trustee in accordance with the Intercreditor Agreement for the benefit of, *inter alios*, the holders of the Super Senior Notes, the holders of the Reinstated 2023 Notes and the Noteholders. The holders of the Super Senior Notes, the holders of the Reinstated 2023 Notes and the Noteholders will not be entitled pursuant to a contract for the benefit of third parties under Section 328 of the German Civil Code (*Bürgerliches Gesetzbuch*) in respect of any guarantees guaranteeing the Secured Notes. Upon enforcement of any of the Note Guarantees, all net proceeds from such enforcement shall be applied in accordance with the Intercreditor Agreement, which provides for a priority of the claims of the holders of the Super Senior Notes over the claims of the Noteholders and the holders of the Reinstated 2023 Notes with respect to such proceeds.

(e) *Release of Note Guarantees*. Pursuant to the Terms and Conditions and in accordance with the terms of the Intercreditor Agreement, the Security Trustee shall be irrevocably authorized to release any of the Note Guarantees (at the cost of the Issuer and without any consent, sanction, authority or further confirmation from any Noteholder) (i) in connection with any sale, assignment, transfer, conveyance or other disposition (including by way of merger or consolidation) of the Capital Stock of the relevant Guarantor (whether by direct sale or sale of a holding company) to a Person that is not the Issuer or any of the Subsidiaries that results in such Guarantor ceasing to be a Subsidiary of the Issuer, if the sale, assignment, transfer, conveyance or other disposition does not violate § 9(e) (*Limitation on Sales of Assets*), (ii) in connection with a Permitted Reorganization, (iii) if the obligations under the Secured Notes have been satisfied in full or (iv) in accordance with an enforcement action pursuant to the Intercreditor Agreement.

§ 4 INTEREST

(a) From and including 31 July 2023, the Notes will bear interest on their principal amount at a rate of (i) 8.00 per cent. per annum in any Determination Period ending on or before 30 December 2026, (ii) 12.00 per cent. per annum in the Determination Periods beginning on 31 December 2026 and 30 June 2027 and (iii) 15.00 per cent. per annum in any Determination Period beginning on or after 31 December 2027. Interest is payable semi-annually in arrears on each Interest Payment Date, commencing on 31 December 2023.

(b) If a Note is redeemed, such Note will cease to bear interest from the end of the day immediately preceding the due date for redemption.

(c) Any due and unpaid amount of principal shall, irrespective of any notice and for so long as any principal amounts payable under the Notes are not paid when due, bear additional default interest at a rate equal to 1.00 per cent. per annum from and including the relevant due date to but excluding the date of payment.

(d) Where interest is to be calculated in respect of any period of time, the interest will be calculated on the basis of the Day Count Fraction.

§ 5 MATURITY, REDEMPTION AND PURCHASE

(a) Redemption at Maturity

To the extent that the Notes have not previously been redeemed in whole or in part, or repurchased and cancelled they will be redeemed at their outstanding principal amount plus accrued interest on the Maturity Date.

(b) Early Redemption at the Option of the Issuer

The Issuer may, at any time after the Super Senior Notes have been redeemed and/or cancelled in full, on giving not less than 10 nor more than 60 days' prior notice to the Noteholders in accordance with § 12 (*Notices*), redeem the Notes in whole or in part on a *pro rata* basis at a redemption price equal to 100 per cent. of the principal amount, together with interest accrued to (but excluding) the Call Redemption Date, with effect from the Call Redemption Date. Any such notice of early redemption shall be irrevocable and must specify the Call Redemption Date.

(c) Mandatory Redemption in case of an Early Redemption, Mandatory Redemption or Repurchase of the Reinstated 2023 Notes

If any principal amount of the Reinstated 2023 Notes is redeemed or repurchased by the Issuer, the Issuer shall redeem the principal amount of the Notes *pro rata* and on a *pari passu* basis, at a redemption price equal to 100 per cent. of the principal amount, together with interest accrued to (but excluding) the date of actual redemption, no later than the date when the Reinstated 2023 Notes are so redeemed or repurchased, provided that no such mandatory redemption shall be made before the Super Senior Notes have been redeemed and/or cancelled in full.

(d) Mandatory Redemption in Case of an Acquisition of Control

Upon occurrence of an Acquisition of Control, the Notes shall be redeemed in whole but not in part at a redemption price equal to 100 per cent. of the principal amount, together with interest accrued to (but excluding) the actual date of redemption, provided that no such mandatory redemption shall be made before the Super Senior Notes have been redeemed and/or cancelled in full.

If an Acquisition of Control occurs, the Issuer will, without undue delay after becoming aware thereof, give notice in accordance with § 12 (*Notices*) of the occurrence of the Acquisition of Control.

(e) Mandatory Redemption pursuant to the Relevant Proceeds Waterfall

On any Interest Payment Date, the Issuer shall apply the Relevant Proceeds determined on the Relevant Date immediately preceding such Interest Payment Date to redeem the principal amounts outstanding under the Secured Notes subject to § 6(b) and in the order and priority set out in § 6 (*Payments from Relevant Proceeds*).

(f) Partial Redemptions

In the case of a partial redemption of the Notes, such partial redemption shall be reflected by use of a pool factor and in compliance with the requirements and procedures of the Clearing System unless otherwise required by law or any applicable stock exchange rules or a reduction in aggregate principal amount.

(g) The Issuer and any of its Subsidiaries may, at any time after the Super Senior Notes have been redeemed and/or cancelled in full, purchase Notes, in the open market or otherwise, as long as such purchase does not otherwise violate the terms and conditions of any Secured Notes.

Any Notes purchased by the Issuer or any of its Subsidiaries may be cancelled or held and resold.

§ 6 PAYMENTS FROM RELEVANT PROCEEDS

(a) Relevant Proceeds Waterfall

Subject to § 6(b) below, on any Interest Payment Date, the Issuer shall apply the Relevant Proceeds determined on the Relevant Date immediately preceding such Interest Payment Date in the following order and priority (the "**Relevant Proceeds Waterfall**"):

(i) first, interest payment on the Super Senior Notes (*pro rata* and *pari passu* among the Super Senior Notes);

(ii) second, mandatory redemption of principal amounts outstanding under the Super Senior Notes in whole or in part on a *pro rata* and *pari passu* basis at a redemption price equal to 100 per cent. of the principal amount, together with interest accrued to (but excluding) the relevant Interest Payment Date;

(iii) third, interest payment on the Reinstated Senior Notes (*pro rata* and *pari passu* among the Reinstated Senior Notes); and

(iv) fourth, mandatory redemption of principal amounts outstanding under the Notes and the Reinstated 2023 Notes, respectively, in whole or in part on a *pro rata* and *pari passu* basis among the Reinstated Senior Notes at a redemption price equal to 100 per cent. of the principal amount, together with interest accrued to (but excluding) the relevant Interest Payment Date.

(b) Unapplied Relevant Proceeds

(i) Before any and all obligations under the Super Senior Notes have been satisfied and discharged in full, the following shall apply:

(A) The Issuer shall not be required to make mandatory redemptions of principal amounts outstanding under any Reinstated Senior Notes from Relevant Proceeds in accordance with the Relevant Proceeds Waterfall on an Interest Payment Date unless the Relevant Proceeds on such Relevant Date available for redemptions of principal amounts outstanding under the Reinstated Senior Notes equal or exceed EUR 5,274,999.92.

If the Relevant Proceeds available for redemptions of principal amounts outstanding under the Reinstated Senior Notes on any Relevant Date equal or exceed the applicable threshold amounts set out above, such Relevant Proceeds shall be applied in their entirety in redemptions of principal amounts under the Reinstated Senior Notes pursuant to the Relevant Proceeds Waterfall on the immediately following Interest Payment Date. Any Relevant Proceeds that would have been required to be applied towards a redemption of Notes pursuant to the Relevant Proceeds Waterfall on an Interest Payment Date but are not so applied in reliance on this sub-paragraph (b)(i)(A) of § 6 (*Payments from Relevant Proceeds*) shall, until application pursuant to the Relevant Proceeds Waterfall, constitute "**Unapplied Relevant Proceeds**".

(B) Any Unapplied Relevant Proceeds shall be deposited in a separate account of the Issuer pledged for the benefit of the Security Trustee until application pursuant to the Relevant Proceeds Waterfall.

(ii) After any and all obligations under the Super Senior Notes have been satisfied and discharged in full, the following shall apply:

(A) The Issuer shall not be required to make mandatory redemptions of principal amounts outstanding under any Reinstated Senior Notes from Relevant Proceeds in accordance with the Relevant Proceeds Waterfall on an Interest Payment Date unless the Relevant Proceeds on such Relevant Date available for redemptions of principal amounts outstanding under the Reinstated Senior Notes exceed the sum of (x) the anticipated interest payable pursuant to § 6(a)(iii) on the next Interest Payment Date (taking into account, for the avoidance of doubt, any redemptions made pursuant to the Relevant Proceeds Waterfall or otherwise) (the "**Projected Interest**") plus (y) EUR 2,500,000.00. If the Relevant Proceeds available for redemptions of principal amounts outstanding under the Reinstated Senior Notes on any Relevant Date equal or exceed the applicable threshold amounts set out above, such Relevant Proceeds shall, in the amount by which they exceed the Projected Interest, be applied in redemptions of principal amounts under the Reinstated Senior Notes pursuant to the Relevant Proceeds Waterfall on the immediately following Interest Payment Date.

(B) Any Relevant Proceeds that would have been required to be applied towards a redemption of Notes pursuant to the Relevant Proceeds Waterfall on an Interest Payment Date but are not so applied in reliance on sub-paragraph (b)(ii) of this § 6 (*Payments from Relevant Proceeds*) shall, until application pursuant to the Relevant Proceeds Waterfall, constitute "**Unapplied Relevant Proceeds**".

(C) Any Unapplied Relevant Proceeds shall be deposited in a separate account of the Issuer pledged for the benefit of the Security Trustee until application pursuant to the Relevant Proceeds Waterfall (the "**Unapplied Relevant Proceeds Account**").

(D) If at any time the Free Liquidity (excluding, for the avoidance of doubt, any Relevant Proceeds incl. any amounts deposited in the Unapplied Relevant Proceeds Account) falls below EUR 5,000,000.00 or would fall below EUR 5,000,000.00 as a result of a payment permitted under the Terms and Conditions due within 10 Business Days, the Issuer may (x) refrain from depositing Unapplied Relevant Proceeds in the Unapplied Relevant Proceeds Account or (y) withdraw Unapplied Relevant Proceeds from the Unapplied Relevant Proceeds Account, in each case in an amount not exceeding the amount by which the Free Liquidity (excluding, for the avoidance of doubt, any Relevant Proceeds incl. any amounts deposited in the Unapplied Relevant Proceeds Account) fell or would fall below EUR 5,000,000.00. The Issuer may use such amount (which shall, until application pursuant to the Relevant Proceeds Waterfall or deposit in the Unapplied Relevant Proceeds Account, constitute "**Withdrawn Unapplied Relevant Proceeds**") for any purpose permitted under the Terms and Conditions. The Issuer shall ensure that the Withdrawn Unapplied Relevant Proceeds at no time exceed EUR 3,750,000.00, which amount shall be reduced by any Investments made by the Issuer on or after 1 February 2026 (with floor at 0) outstanding from time to time.

(E) On the first and 15th day of each calendar month or, if such day is not a Business Day, on the immediately following Business Day, the Issuer shall deposit Withdrawn Unapplied Relevant Proceeds (if any) in the Unapplied Relevant Proceeds Account in the amount by which the Free Liquidity (excluding, for the avoidance of doubt, any Relevant Proceeds incl. any amounts deposited in the Unapplied Relevant Proceeds Account) exceeds EUR 5,000,000.00.

(c) Within ten (10) Business Days after any Relevant Date, the Issuer shall give notice to the Noteholders in accordance with § 12 (*Notices*) specifying (i) the Relevant Proceeds and (ii) the application of the Relevant Proceeds in accordance with the Relevant Proceeds Waterfall and/or § 6(b) (as applicable).

§ 7 PAYMENTS

(a) All payments on the Notes will be made in Euro to the Principal Paying Agent for transfer to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System outside the United States. Payments on the Notes made to the Clearing System or to its order will discharge the liability of the Issuer under the Notes to the extent of the sums so paid.

(b) If the due date for payment of any amount in respect of the Notes is not a Business Day, then the Noteholder will not be entitled to payment until the next day which is a Business Day. In such case, the Noteholders will not be entitled to further interest or to any other compensation on account of such delay.

§ 8 TAXES

(a) All payments of principal and interest by the Issuer in respect of the Notes or by any of the Guarantors in respect of the Note Guarantees will be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature ("**Taxes**") imposed, levied, collected, withheld or assessed by the Issuer's or any of the Guarantors' country of domicile for tax purposes or any political subdivision or any authority or any agency of or in the Issuer's or any of the Guarantors' country of domicile for tax purposes that has power to tax, unless the Issuer is compelled by law to make such withholding or deduction. If the Issuer or any of the Guarantors is required to make such withholding or deduction, the Issuer or the relevant Guarantor(s) will pay such additional amounts (the "**Additional Amounts**") to the Noteholders as the Noteholders would have received if no such withholding or deduction had been required, except that no such Additional Amounts will be payable for any such Taxes in respect of any Note or the Note Guarantees:

(i) which are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer or any of the Guarantors from payments of principal or interest made by it; or

(ii) which are payable by reason of the Noteholder having, or having had, some personal or business connection with the Issuer's or any of the Guarantors' country of domicile for tax purposes and not merely by reason of the fact that payments in respect of the Notes or the Note Guarantees are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, the Issuer's or any of the Guarantors' country of domicile for tax purposes; or

(iii) which are deducted or withheld pursuant to (i) any European Union directive or regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which the Issuer's or any of the Guarantors' country of domicile for tax purposes or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such directive, regulation, treaty or understanding; or

(iv) which are payable by reason of a change in law that becomes effective more than 30 days after the relevant payment becomes due, or is duly provided for and notice thereof is published in accordance with § 12 (*Notices*), whichever occurs later; or

(v) which is levied under the Luxembourg Relibi law of 23 December 2005, as amended.

In any event, the Issuer and the Guarantors are authorised to withhold or deduct from payments on the Notes or the Note Guarantees any withholding or deduction of any amounts required by the rules of U.S. Internal Revenue Code of 1986 Sections 1471 through 1474 (or any amended or successor provisions or any associated regulations or other official guidance), pursuant to any inter-governmental agreement or implementing legislation adopted by another jurisdiction in connection with these provisions, or pursuant to any agreement with the U.S. Internal Revenue Service ("**FATCA Withholding**"), and will have no obligation to indemnify any investor or pay additional amounts in relation to any FATCA Withholding deducted or withheld by the Issuer, any of the Guarantors, the relevant Paying Agent or any other party.

(b) The Issuer shall ensure that at any time until the Maturity Date no proceeds from the Notes financing will be on-lent or made otherwise available, directly or indirectly, to any member of the Group incorporated in Switzerland and/or having its registered office in Switzerland and/or qualifying as a Swiss resident pursuant to article 9 of the Swiss Withholding Tax Act; or otherwise be used or made available, directly or indirectly, in each case, in a manner which would constitute a "harmful use of proceeds in Switzerland" (*schädliche Mittelverwendung in der Schweiz*) as interpreted by the Swiss Federal Tax Administration for purposes of Swiss Withholding Tax, unless and until a written confirmation or countersigned tax ruling application from the Swiss Federal Tax Administration has been obtained (in form and substance satisfactory to the

Noteholders' Representative) confirming that such use of proceeds is permitted without interest and fees arising in connection with the Notes becoming subject to Swiss Withholding Tax.

§ 9 COVENANTS

(a) *Limitation on Indebtedness.*

(i) The Issuer shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, Incur any Indebtedness (including Acquired Indebtedness).

(ii) The foregoing § 9(a)(i) shall not prohibit the Incurrence of the following Indebtedness ("**Permitted Debt**"):

(A) Indebtedness of the Issuer or any Subsidiary owing to and held by the Issuer or any Subsidiary; *provided*, however, that

(1) if the Issuer or any Guarantor is the obligor on such Indebtedness and the payee is not the Issuer or a Guarantor, such Indebtedness must be unsecured and (except in respect of intercompany current liabilities incurred in the ordinary course of business in connection with cash management positions of the Issuer and its Subsidiaries), to the extent legally permitted (the Issuer and its Subsidiaries having completed all procedures required in the reasonable judgment of directors or officers of the obligee or obligor to protect such Persons from any penalty or civil or criminal liability in connection with the subordination of such Indebtedness), expressly subordinated in right of payment to the prior payment in full in cash of all obligations with respect to the Notes, in the case of the Issuer, or the relevant Note Guarantee, in the case of a Guarantor (for the avoidance of doubt, subordination pursuant to the terms of the Intercreditor Agreement shall satisfy any requirement that such Indebtedness is expressly subordinated to the Notes); and

(2) (x) any subsequent issuance or transfer of Capital Stock that results in any such Indebtedness being held by a Person other than the Issuer or a Subsidiary; and (y) any sale or other transfer of any such Indebtedness to a Person that is neither the Issuer nor a Subsidiary, shall be deemed, in each case, to constitute an Incurrence of such Indebtedness by the Issuer or such Subsidiary, as the case may be, that was not permitted by this sub-paragraph (A);

(B) any Refinancing Indebtedness Incurred in respect of any Indebtedness Incurred pursuant to sub-paragraphs (C) or (D) of this § 9(a)(ii) or this sub-paragraph (B); provided, in each case, that the net proceeds from the Incurrence of any Refinancing Indebtedness shall be applied within 15 Business Days to repay the relevant Indebtedness Incurred pursuant to sub-paragraphs (C) or (D) of this § 9(a)(ii) or this sub-paragraph (B);

(C) Existing Indebtedness (other than the Secured Notes);

(D) Indebtedness Incurred by the Issuer and the Guarantors represented by (i) the Notes outstanding on the Amendment Effective Date (and any interest or other amounts paid from time to time on the Notes in accordance with the Terms and Conditions by increasing the principal amount of the Notes) and the Note Guarantees in respect of these Notes; (ii) the Super Senior Notes (and any interest or other amounts paid from time to time on the Super Senior Notes in accordance with their terms and conditions by increasing the principal amount of the Super Senior Notes); (iii) the Reinstated 2023 Notes (and any interest or other amounts paid from time to time on the Reinstated 2023 Notes in accordance with their terms and conditions by increasing the principal amount of the Reinstated 2023 Notes) and (iv) any interest or other amounts paid from time to time on any Refinancing Indebtedness Incurred in respect of any Indebtedness Incurred pursuant to sub-clauses (i) to (iii) of this sub-paragraph (D) by increasing the principal amount of such Refinancing Indebtedness;

(E) (i) without limiting § 9(i), Indebtedness Incurred under a Guarantee by any Guarantor of Indebtedness of the Issuer or any Subsidiary to the extent that the guaranteed Indebtedness was permitted to be Incurred by another provision of this § 9(a); *provided*, however, that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the Notes or a Note Guarantee, then the Guarantee must be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness guaranteed; and (ii) without limiting § 9(c), Indebtedness arising by reason of any Lien granted by or applicable to such Person securing Indebtedness of the Issuer or any Subsidiary to the extent that the secured Indebtedness was permitted to be Incurred by another provision of this § 9(a);

(F) Indebtedness Incurred after the Amendment Effective Date in respect of workers' compensation claims, early retirement obligations, or social security or wage taxes in the ordinary course of business;

(G) Indebtedness (i) of any Person incurred and outstanding on the date on which such Person becomes a Subsidiary or is merged, consolidated, amalgamated or otherwise combined with (including pursuant to any acquisition of assets and assumption of related liabilities) the Issuer or any Subsidiary or (ii) Incurred to provide all or any portion of the funds used to consummate the transaction or series of related transactions pursuant to which any Person became a Subsidiary or was otherwise acquired by the Issuer or any Subsidiary in an aggregate amount not to exceed, (x) when taken together with the principal amount of all other Indebtedness Incurred pursuant to this § 9(a)(ii)(G)(x) and then outstanding, EUR 3 million; *plus* (y) any Indebtedness to the extent that such Indebtedness is discharged within three months of the completion of such acquisition or would otherwise constitute Permitted Debt;

(H) Indebtedness of the Issuer or its Subsidiaries in respect of (i) letters of credit, surety, performance or appeal bonds, completion guarantees, judgment, advance payment, customs, VAT or other tax guarantees or similar instruments issued in the ordinary course of business of such Person and not in connection with the borrowing of money, including letters of credit or similar instruments in respect of self-insurance and workers compensation obligations, (ii) the financing of insurance premiums in the ordinary course of business, (iii) the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, and (iv) any customary treasury and cash management or cash pooling or netting or setting-off arrangements entered into in the ordinary course of business; provided, however, that, in relation to the foregoing sub-clauses (i) through (iv), upon the drawing (*Inanspruchnahme*) of such letters of credit or other instrument, such obligations are reimbursed within 30 days following such drawing (*Inanspruchnahme*);

(I) Indebtedness arising from agreements providing for customary guarantees, indemnification, obligations in respect of earn-outs or other adjustments of purchase price or, in each case, similar obligations, in each case, Incurred or assumed in connection with the acquisition or disposition of any business or assets or Person or any Capital Stock of a Subsidiary (other than Guarantees of Indebtedness Incurred by any Person acquiring or disposing of such business or assets or such Subsidiary for the purpose of financing such acquisition or disposition); provided that the maximum liability of the Issuer and its Subsidiaries in respect of all such Indebtedness related to a disposition shall at no time exceed the gross proceeds, including the Fair Market Value of non-cash proceeds (measured at the time received and without giving effect to any subsequent changes in value), actually received by the Issuer and its Subsidiaries in connection with such disposition;

(J) Indebtedness of the Issuer and any Subsidiary in an aggregate principal amount at any time outstanding, including all Indebtedness to renew, refund, refinance, replace, defease or discharge any Indebtedness Incurred under this sub-paragraph (J), shall not exceed EUR 5 million;

(K) Indebtedness consisting of Capitalized Lease Obligations or Indebtedness otherwise Incurred to finance the lease or rental of property in an amount at any one time outstanding not to exceed EUR 10 million; and

(L) Indebtedness of Ginova HoldCo S.à r.l. and/or Ginova PropCo S.à r.l. with respect to the Gießen Property, *provided* that the net proceeds from the Incurrence of such Indebtedness, which shall be no lower than 95 per cent. of the principal amount thereof, are used within 15 Business Days to repay Indebtedness outstanding under the Secured Notes in accordance with the Relevant Proceeds Waterfall.

(iii) For purposes of determining compliance with this § 9(a):

(A) in the event that an item of Indebtedness meets the criteria of more than one of the types of Indebtedness described in the foregoing sub-paragraphs (A) through (L) of § 9(a)(ii), the Issuer, in its sole discretion, will be permitted to classify and may from time to time reclassify such item of Indebtedness in any manner that complies with this § 9(a) and include the amount and type of such Indebtedness in one or more of the foregoing sub-paragraphs (A) through (L) of § 9(a)(ii);

(B) the principal amount of any Disqualified Stock of the Issuer or a Guarantor, or preferred stock of a Subsidiary that is not a Guarantor, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;

(C) accrual of interest, accrual of dividends, the accretion of accreted value and the accretion or amortization of original issue discount will not be deemed to be an Incurrence of Indebtedness for purposes of this § 9(a); guarantees of, or obligations in respect of letters of credit, bankers' acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Permitted Debt shall not be included;

(D) the amount of any Indebtedness outstanding as of any date will be:

(1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; and

(2) the principal amount of the Indebtedness, in the case of any other Indebtedness;

(E) for purposes of determining compliance with any euro-denominated restriction on the Incurrence of Indebtedness, the Euro Equivalent of the principal amount of Indebtedness denominated in another currency will be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of Indebtedness Incurred under a revolving credit facility; provided that:

(1) the Euro Equivalent of the principal amount of any such Indebtedness outstanding on the Amendment Effective Date will be calculated based on the relevant currency exchange rate in effect on the Amendment Effective Date; and

(2) if for so long as any such Indebtedness is subject to an agreement intended to protect against fluctuations in currency exchange rates with respect to the currency in which such Indebtedness is denominated covering principal and interest on such Indebtedness, the amount of such Indebtedness, if denominated in euro, will be the amount of the principal payment required to be made under such currency agreement and, otherwise, the Euro Equivalent of such amount plus the Euro Equivalent of any premium which is at such time due and payable but is not covered by such currency agreement.

(F) Notwithstanding any other provision of this § 9(a), the maximum amount of Indebtedness that the Issuer or a Subsidiary may Incur pursuant to this § 9(a) shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

(b) *Limitation on Restricted Payments*.

(i) The Issuer shall not, and shall not permit any of its Subsidiaries to, make a Restricted Payment.

(ii) The foregoing § 9(b)(i) shall not prohibit (collectively, "**Permitted Payments**"):

(A) the payment of any dividend within 60 days after the date of declaration thereof, if at such date of declaration such payment was permitted by the provisions of the preceding paragraph and such payment shall have been deemed to have been paid on such date of declaration;

(B) the purchase or other acquisition of Capital Stock made by exchange for, or out of the proceeds of the substantially concurrent sale of, Capital Stock of the Issuer (other than Disqualified Stock and other than Capital Stock issued or sold to a Subsidiary or an employee stock ownership plan or similar trust to the extent such sale is financed with loans or Guaranteed by the Issuer or any Subsidiary unless such loans have been repaid with cash on or prior to the date of determination), Subordinated Shareholder Debt or a substantially concurrent contribution to the equity of the Issuer (other than by a Subsidiary of the Issuer);

(C) the purchase, redemption, defeasance or other acquisition or retirement for value of any Subordinated Indebtedness for, or out of the Net Cash Proceeds of, the substantially concurrent sale of Capital Stock of the Issuer (other than Disqualified Stock and other than Capital Stock issued or sold to a Subsidiary or an employee stock ownership plan or similar trust to the extent such sale is financed with loans or Guaranteed by the Issuer or any Subsidiary unless such loans have been repaid with cash on or prior to the date of determination) or for, or out of the Net Cash Proceeds of, a substantially concurrent Incurrence (other than to a Subsidiary) of Refinancing Indebtedness or Subordinated Shareholder Debt;

(D) the making of any Investment in exchange for, or out of or with the Net Cash Proceeds of the substantially concurrent sale or issuance (other than to a Subsidiary of the Issuer) of, Capital Stock of the Issuer (other than Disqualified Stock), Subordinated Shareholder Debt or from the substantially concurrent contribution of common equity capital to the Issuer;

(E) the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of the Issuer or any preferred stock of any Subsidiary issued on or after the Amendment Effective Date in accordance with § 9(a);

(F) any purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Subordinated Indebtedness of the Issuer with the net cash proceeds from a concurrent incurrence of Refinancing Indebtedness;

(G) payments of cash, dividends, distributions, advances or other Restricted Payments by the Issuer or any of its Subsidiaries to allow the payment of cash in lieu of the issuance of fractional shares upon

(1) the exercise of options or warrants; or

(2) the conversion or exchange of Capital Stock of any such Person;

(H) so long as no Default has occurred and is continuing (or would result therefrom), other Restricted Payments in an amount not to exceed EUR 4 million outstanding at any time.

(c) *Limitation on Liens.*

The Issuer shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, assume or permit to subsist any Lien upon any of its or any of its Subsidiaries' present or future property or assets, or assign or otherwise convey any right to receive income or profits therefrom, to secure any Indebtedness (including, in each case, any guarantees or indemnities in respect thereof) (such Lien, the "**Initial Lien**") except (a) in the case of any property or asset that does not constitute Collateral, (i) Permitted Liens and (ii) Liens that are not Permitted Liens if, contemporaneously with the Incurrence of such Initial Lien, the Notes and the obligations under the Terms and Conditions (or a Note Guarantee in the case of Liens of a Guarantor) are directly secured equally and ratably with, or in the case of Liens with respect to Subordinated Indebtedness, with priority to, the Indebtedness secured by such Initial Lien for so long as such

Indebtedness is so secured and (b) in the case of any property or asset constituting Collateral, Permitted Collateral Liens.

(d) *Limitation on Restrictions on Distributions from Subsidiaries.*

(i) The Issuer shall not, and shall not permit any Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Subsidiary to:

(A) pay dividends or make any other distributions on its Capital Stock or pay any Indebtedness or other obligations owed to the Issuer or any Subsidiary;

(B) make any loans or advances to the Issuer or any Subsidiary; or

(C) sell, transfer or lease any of its property or assets to the Issuer or any Subsidiary.

(ii) The foregoing § 9(d)(i) shall not prohibit:

(A) any encumbrance or restriction pursuant to the Terms and Conditions, the terms and conditions of the Reinstated 2023 Notes, the terms and conditions of the Super Senior Notes, the Security Documents or the Intercreditor Agreement or any other agreement in effect or entered into on the Amendment Effective Date;

(B) any encumbrance or restriction with respect to a Subsidiary pursuant to an agreement relating to any Capital Stock or Indebtedness Incurred by such Subsidiary on or prior to the date on which such Subsidiary was acquired by or merged, consolidated or otherwise combined with or into the Issuer or any Subsidiary, or on which such agreement or instrument is assumed by the Issuer or any Subsidiary in connection with an acquisition of assets (other than Capital Stock or Indebtedness Incurred as consideration in, or to provide all or any portion of the funds or credit support utilized to consummate the transaction or series of related transactions pursuant to which such Subsidiary became a Subsidiary of the Issuer or was acquired by the Issuer or in contemplation of the transaction) and outstanding on such date;

(C) any agreement or instrument (a "**Refinancing Agreement**") effecting Refinancing Indebtedness or Disqualified Stock Incurred pursuant to, or that otherwise extends, renews, refunds, refinances or replaces, an agreement or instrument or obligation in effect or entered into on the Amendment Effective Date (an "**Initial Agreement**") or contained in any amendment, supplement or other modification to an Initial Agreement (an "**Amendment**"); provided, however, that the encumbrances and restrictions contained in any such Refinancing Agreement or Amendment are not materially less favorable to the Noteholders taken as a whole than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such Refinancing Agreement or Amendment relates (as determined in good faith by the Board of Directors or an Officer of the Issuer) and either (x) the Issuer determines that such encumbrances and restrictions will not adversely affect the Issuer's ability to make principal and interest payments on the Notes as and when they come due or (y) such encumbrances and restrictions apply only during the continuance of a default in respect of a payment or financial maintenance covenant relating to such Indebtedness;

(D) any restriction with respect to a Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Subsidiary pending the closing of such sale or disposition;

(E) in the case of sub-paragraph (C) of § 9(d)(i), any encumbrance or restriction:

(1) that restricts in a customary manner the assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any such lease, license or other contract entered into in the ordinary course of business;

(2) contained in mortgages, pledges or other security agreements permitted under and in compliance with the Terms and Conditions to the extent such encumbrances or restrictions restrict the transfer of the property subject to such mortgages, pledges or other security agreements; or

(3) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Issuer or any Subsidiary;

(F) encumbrances or restrictions arising or existing by reason of applicable law (including, but not limited to, any capital maintenance or similar corporate law restrictions applicable to such Subsidiary the breach of which would, as determined in good faith by the Board of Directors of the Issuer or relevant Subsidiary, result in any civil or criminal liability of any directors or officers of the relevant Subsidiary) or any applicable rule, regulation or order or governmental license, permit or concession;

(G) Liens or other security interests permitted to be created, to be assumed or to subsist under the provisions of § 9(c) (*Limitations on Liens*) that limit the right of the debtor to dispose of the assets subject to such Lien or other security interest;

(H) customary provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements in the ordinary course of business (including agreements entered into in connection with a Restricted Investment), entered into with the approval of the Issuer's Board of Directors which limitation is applicable only to the assets or property that are the subject of such agreements;

(I) any encumbrance or restriction with respect to a Subsidiary (or any of its property or assets) imposed pursuant to an agreement entered into for the direct or indirect sale or disposition to a Person of all or substantially all the Capital Stock or assets of such Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(J) customary provisions in leases, licenses and other similar agreements and instruments entered into in the ordinary course of business;

(K) encumbrances or restrictions on the assets of or ownership interests in a joint venture, in each case contained in the terms of the agreement or agreements governing such joint venture; provided, however, that any such encumbrance or restriction (i) is customary in joint venture agreements, (ii) is not less favorable to the Issuer or any Subsidiary than to any other joint venturer and (iii) will not materially affect the Issuer's ability to make principal or interest payments on the Notes, as determined in good faith by the Board of Directors or an Officer of the Issuer, at the time of entering into such agreement or agreements (and at the time of any modification of the terms of any such encumbrance or restriction); and

(L) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness Incurred by the Issuer or any Subsidiary permitted to be Incurred subsequent to the Amendment Effective Date pursuant to § 9(a) (*Limitation on Indebtedness*) if the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Noteholders than (i) the encumbrances and restrictions contained in the Notes, the Intercreditor Agreement and the Security Documents, in each case, as in effect on the Amendment Effective Date or (ii) as is customary in comparable financings (as determined in good faith by the Board of Directors or an Officer of the Issuer) and where, in the case of this sub-clause (ii), the Issuer determines when such Indebtedness is Incurred that such encumbrances or restrictions will not adversely affect, in any material respect, the Issuer's ability to make principal or interest payments on the Notes as and when they come due.

(e) *Limitation on Sales of Assets*.

(i) The Issuer shall not, and shall not permit any of its Subsidiaries to, make any Asset Disposition unless:

(A) the Issuer or such Subsidiary receives consideration at least equal to the Fair Market Value (such Fair Market Value to be determined on the date of contractually agreeing to such Asset Disposition), as determined in good faith by the Board of Directors of the Issuer (including as to the value of all non-cash consideration), of the shares and assets subject to such Asset Disposition; and

(B) in any such Asset Disposition, at least 90 per cent. of the consideration is in the form of cash or Cash Equivalents.

(C) For purposes of § 9(e)(i)(B), the following shall be deemed cash:

(1) any liabilities, as shown on the Issuer's most recent consolidated balance sheet (or, if Incurred since the date of the last balance sheet, that would be recorded on the next balance sheet), of the Issuer or any Subsidiary (other than contingent liabilities, Disqualified Stock and liabilities that are by their terms subordinated to the Notes or any Note Guarantee) that are assumed by the transferee of any such assets pursuant to any agreement that releases the Issuer or the relevant Subsidiary from or indemnifies against further liability, excluding, however, any assumption of such liabilities owed to an Affiliate of the Issuer or any of its Subsidiaries;

(2) any securities, notes or other obligations received by the Issuer or a Subsidiary from such transferee that are converted by the Issuer or the relevant Subsidiary into cash or Cash Equivalents within 90 days following the closing of the Asset Disposition, to the extent of the cash or Cash Equivalents received in that conversion; and

(3) any Indebtedness of any Subsidiary that is no longer a Subsidiary as a result of such Asset Disposition, to the extent that the Issuer and each other

Subsidiary are released from any Guarantee of such Indebtedness in connection with such Asset Disposition;

(ii) Any Relevant Proceeds received from an Asset Disposition shall be applied by the Issuer in accordance with the Relevant Proceeds Waterfall as set forth in § 6 (*Payments from Relevant Proceeds*).

(f) *Limitation on Affiliate Transactions.*

(i) The Issuer shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into any transaction or series of related transactions (including the rendering of services) with any Affiliate or Related Person of the Issuer (any such transaction or series of related transactions, an "**Affiliate Transaction**") unless:

(A) the terms of such Affiliate Transaction are no less favorable to the Issuer or such Subsidiary, as the case may be, than those that could be obtained in a comparable transaction with a Person who is not an Affiliate or Related Person at the time of such transaction or the execution of the agreement providing for such transaction; and

(B) in the event such Affiliate Transaction involves aggregate consideration in excess of EUR 1 million, the Issuer or any of its Subsidiaries, as the case may be, delivers to the Noteholders' Representative for delivery to the Noteholders in accordance with § 12 (*Notices*) a letter from an Independent Financial Advisor stating that such transaction is (i) fair to the Issuer or such Subsidiary from a financial point of view or (ii) on terms not less favorable than might have been obtained in a comparable transaction at such time on an arm's length basis from a Person who is not an Affiliate or Related Person.

(ii) The foregoing § 9(f)(i) shall not apply to:

(A) any issuance or sale of Capital Stock, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, or entering into, or maintenance of, any employment, consulting, collective bargaining or benefit plan, program, agreement or arrangement, related trust or other similar agreement and other compensation arrangements, options, warrants or other rights to purchase Capital Stock of the Issuer, any Subsidiary or any parent of the Issuer, restricted stock plans, long-term incentive plans, stock appreciation rights plans, participation plans or similar employee benefits or consultants' plans (including valuation, health, insurance, deferred compensation, severance, retirement, savings or similar plans, programs or arrangements) or indemnities provided on behalf of officers, employees, directors or consultants approved by the Board of Directors of the Issuer, in each case in the ordinary course of business;

(B) any Affiliate Transaction between the Issuer and a Subsidiary or between Subsidiaries;

(C) any Restricted Payment permitted to be made pursuant to § 9(b) (*Limitation on Restricted Payments*) and any Permitted Investment (other than Permitted Investments described in sub-paragraphs (b), (e) and (j) of the definition thereof);

(D) the payment of reasonable fees and reimbursement of expenses to, and customary indemnities (including under customary insurance policies) and employee benefit and pension expenses provided on behalf of, directors, officers, consultants or employees of the Issuer, any Subsidiary of the Issuer or any parent of the Issuer (whether directly or indirectly and including through any Person owned or controlled by any of such directors, officers or employees);

(E) the Incurrence of Subordinated Shareholder Debt and any amendment, waiver or other transaction with respect to any Subordinated Shareholder Debt in compliance with the other provisions of the Terms and Conditions, the Intercreditor Agreement;

(F) any issuance of Capital Stock (other than Disqualified Stock) of the Issuer or options, warrants or other rights to acquire such Capital Stock or Subordinated Shareholder Debt to Affiliates or Related Persons of the Issuer;

(G) transactions (x) with the Issuer and its Subsidiaries and with Co-Investment Entities in the ordinary course of business, consistent with past practice and as otherwise permitted hereunder or (y) for which the Issuer shall have received a written opinion from an Independent Financial Advisor with experience appraising the terms and conditions of the type of transaction or series of related transactions for which an opinion is required, stating that such Affiliate Transaction is fair to the Issuer or such Subsidiary from a financial point of view; and

(H) any participation by an Affiliate or Related Person of the Issuer in a public tender or exchange offer for securities or debt instruments issued by the Issuer or any of its Subsidiaries that are conducted on arm's-length terms, in accordance with applicable laws, and provide for the same price or exchange ratio, as the case may be, to all holders accepting such tender or exchange offer;

(I) the performance of obligations of the Issuer or any of its Subsidiaries under the terms of any agreement or instrument in effect as of or on the Amendment Effective Date; and

(J) (x) transactions with customers, clients, suppliers or purchasers or sellers of goods or services or providers of employees or other labor, in each case in the ordinary course of business, or (y) any transaction in the ordinary course of business between the Issuer or any of its Subsidiaries and any Person that is an Affiliate or Related Person of the Issuer solely because a director of such Person is also a director of the Issuer or any direct or indirect parent of the Issuer or solely because the Issuer or a Subsidiary or any Affiliate or Related Person of the Issuer or a Subsidiary owns an equity interest in or otherwise controls such Affiliate or Related Person; provided that, in each case, (a) such transaction is otherwise in compliance with the terms of the Terms and Conditions and (b) is on terms at least as favorable as could have been obtained at such time from an unaffiliated Person, in the reasonable determination of the members of the Board of Directors or an Officer of the Issuer (provided such Officer has been delegated such power by the Board of Directors in the prior twelve months) (provided no member of the Board of Directors or Officer of the Issuer with an interest in such transaction may participate in such determination).

(g) *Reports and Milestones*.

(i) For so long as any Notes are outstanding, the Issuer shall post on its website within 60 days after the end of each of the first three fiscal quarters in each fiscal year of the Issuer, beginning with the fiscal quarter ending 30 September 2023, unaudited condensed consolidated quarterly financial statements in accordance with IFRS or a quarterly statement in accordance with the requirements of the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*).

(ii) The Issuer shall meet the following milestones (the "**Milestones**" and each, a "**Milestone**"):

(A) on or before 31 December 2025, post on its website the annual reports for the fiscal years ending on 31 December 2022 and 31 December 2023 containing the consolidated financial statements in accordance with IFRS audited by a recognized auditing firm, the management report in accordance with Article 68 of the Luxembourg law of 19 December 2002 on the register of commerce and companies, and the accounting and annual accounts of undertakings, as amended from time to time;

(B) on or before 31 May 2026, post on its website the annual report for the fiscal years ending on 31 December 2024 containing the consolidated financial statements in accordance with IFRS audited by a recognized auditing firm, the management report in accordance with Article 68 of the Luxembourg law of 19 December 2002 on the register of commerce and companies, and the accounting and annual accounts of undertakings, as amended from time to time;

(C) on or before 30 September 2026, post on its website the annual report for the fiscal years ending on 31 December 2025 containing the consolidated financial statements in accordance with IFRS audited by a recognized auditing firm, the management report in accordance with Article 68 of the Luxembourg law of 19 December 2002 on the register of commerce and companies, and the accounting and annual accounts of undertakings, as amended from time to time;

(D) within 180 days following the end of the relevant fiscal year, beginning with the fiscal year ending on 31 December 2026, post on its website annual reports containing the consolidated financial statements in accordance with IFRS audited by a recognized auditing firm), the management report in accordance with Article 68 of the Luxembourg law of 19 December 2002 on the register of commerce and companies, and the accounting and annual accounts of undertakings, as amended from time to time;

(E) on or before 31 December 2027, redeem and/or cancel the Super Senior Notes in full; and

(F) on or before 31 December 2027, make cash payments of principal and/or interest in accordance with the terms and conditions of the Reinstated Notes to be made to the holders of the Reinstated Notes in the amount of at least EUR 82,500,000.00.

(h) *Merger and Consolidation.*

(i) *The Issuer*. The Issuer shall not, directly or indirectly, consolidate with or merge with or into another Person, or convey, transfer or lease all or substantially all of the properties and assets of the Issuer and its Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(A) the resulting, surviving or transferee Person (the "**Successor Company**") will be a Person organized and existing under the laws of any member state of the European Union as of 31 December 2003, the United Kingdom or Switzerland, and, in each case, the Successor Company (if not the Issuer) will expressly assume in appropriate documentation delivered to the Noteholders' Representative for delivery to the Noteholders in accordance with the procedures set forth in § 12 (*Notices*) all of the obligations of the Issuer under the Notes, the Security Documents, the Intercreditor Agreement, the Agency Agreement and the Terms and Conditions;

(B) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Company or any Subsidiary of the Successor Company as a result of such transaction as having been Incurred by the Successor Company or such Subsidiary at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(C) each Guarantor shall have delivered to the Noteholders' Representative for delivery to the Noteholders in accordance with the procedures set forth in § 12 (*Notices*) a confirmation that its Note Guarantee shall apply to such Person's obligations in respect of the Notes, the Terms and Conditions and the Agency Agreement;

(D) if any such transaction results in the Issuer or Successor Company being incorporated in a jurisdiction other than Luxembourg or Germany, the Board of Directors of the Issuer and the Successor Company will have adopted a resolution stating that the transaction effecting such a change in jurisdiction was not being entered into for a purpose which included subjecting the Issuer or the Successor Company, as the case may be, to more favorable bankruptcy, insolvency, laws relating to creditors rights or similar laws; and

(E) the Issuer shall deliver to the Noteholders' Representative for delivery to the Noteholders in accordance with the procedures set forth in § 12 (*Notices*) an Officer's Request Certificate and Opinion of Counsel, in each case, stating that such consolidation, merger, conveyance, transfer or lease and such assumption by the Successor Company comply with this § 9(h) and the Opinion of Counsel shall state in addition that (i) all of the obligations of the Issuer under the Notes, the Security Documents, the Intercreditor Agreement, the Agency Agreement and the Terms and Conditions have been validly assumed by Successor Company (if not the Issuer) and (ii) each of the Note Guarantees shall apply to such Person's obligations in respect of the Notes and the Agency Agreement to the same or greater extent than they applied to the Notes and the Agency Agreement immediately prior to such transaction; provided that in giving an Opinion of Counsel, counsel may rely on an Officer's Certificate as to any matters of fact. The Noteholders' Representative shall be entitled to accept such Opinion of Counsel as sufficient evidence of compliance with this paragraph and shall not be obligated to independently investigate whether the requirements of this paragraph are otherwise met.

(ii) *Guarantors*. In addition, the Issuer shall not permit any Guarantor, directly or indirectly, to consolidate with or merge with or into another Person, or convey, transfer or lease all or substantially all of the properties and assets of such Guarantor and its Subsidiaries taken as a whole, in one or more related transactions, to another Person, other than in connection with a Permitted Reorganization, unless:

(A) either:

(1) the resulting, surviving or transferee Person will be a Person organized and existing under the laws of any member state of the European Union on 31 December 2003 or Switzerland, and, in each case, such Person (if not a Guarantor) will expressly assume in appropriate documentation delivered to the Noteholders' Representative for delivery to the Noteholders in accordance with the procedures set forth in § 12 (*Notices*) all of the obligations of such Guarantor under its Note Guarantee; or

(2) the transaction constitutes a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the conveyance, transfer or lease of all or substantially all of the properties and assets of the Guarantor (in each case other than to the Issuer or a Subsidiary) otherwise permitted by the Terms and Conditions;

(B) immediately after giving effect to, and as a result of, such transaction no Default or Event of Default shall have occurred and be continuing; and

(C) the Issuer and such Guarantor shall deliver to the Noteholders' Representative for delivery to the Noteholders in accordance with the procedures set forth in § 12 (*Notices*) an Officer's Request Certificate and Opinion of Counsel, in each case, stating that such consolidation, merger, conveyance, transfer or lease and, in the case of sub-paragraph (A)(1) of this § 9(h)(ii) only, such assumption by the resulting, surviving or transferee Person comply with this § 9(h) and the Opinion of Counsel shall state in addition that (i) all of the obligations of such Guarantor under its Note Guarantee, the Terms and Conditions, the Intercreditor Agreement and the Agency Agreement have been validly assumed by surviving or transferee Person; provided that in giving an Opinion of Counsel, counsel may rely on an Officer's Certificate as to any matters of fact. The Noteholders' Representative shall be entitled to accept such Opinion of Counsel as sufficient evidence of compliance with this paragraph and shall not be obligated to independently investigate whether the requirements of this paragraph are otherwise met; or

(D) the transaction constitutes sale or other disposition (including by way of consolidation or merger) of a Guarantor or the sale or disposition of all or substantially all the assets of a Guarantor (in each case other than to the Issuer or a Subsidiary) permitted by § 9(e).

(iii) The successor to any Guarantor will succeed to, and be substituted for, such Guarantor under the applicable Note Guarantee.

(iv) This § 9(h) will not apply to (a) any consolidation, merger or transfer of assets of any Subsidiary that is not a Guarantor with or into the Issuer or a Guarantor, (b) any consolidation, merger or transfer of assets among Guarantors, or (c) any consolidation, merger or transfer of assets among the Issuer and any Guarantor; provided that, sub-paragraphs (A) and (C) of § 9(h)(i) (*The Issuer*) will be complied with. Sub-paragraph (B) of § 9(h)(i) (*The Issuer*) and sub-paragraph (B) of § 9(h)(ii) (*Guarantors*) will not apply to any merger or consolidation of the Issuer or any Guarantors with or into an Affiliate solely for the purpose of reincorporating the Issuer or such Guarantor in another jurisdiction.

(v) In no event shall any Asset Disposition that complies with § 9(e) (including § 9(e)(ii)) constitute a conveyance, transfer or lease of all or substantially all assets of the Issuer, a Guarantor or any of their Subsidiaries for purposes of this § 9(h).

(i) Future Guarantors.

(i) The Issuer shall cause each Subsidiary that is not a Guarantor and that, after the Amendment Effective Date, Guarantees Indebtedness of the Issuer or any Guarantor in an aggregate principal amount equal to or in excess of EUR 1 million, to execute and deliver concurrently to the Security Trustee a Note Guarantee pursuant to which such Subsidiary will Guarantee the payment of the Notes, which Note Guarantee will be senior to or *pari passu* with such Subsidiary's Guarantee of such other Indebtedness.

(ii) Each Note Guarantee provided pursuant to § 9(i)(i) and each pledge of Collateral provided pursuant to § 9(i)(iv) will be limited as necessary to recognize certain defenses generally available to guarantors or security providers, as applicable (including those that relate to general statutory limitations, capital maintenance, corporate benefit, fraudulent preference, financial assistance or thin-capitalization rules or other similar laws or regulations (or analogous restrictions) or regulatory requirements of any applicable jurisdiction).

(iii) Notwithstanding the foregoing, the Issuer shall not be obligated to cause such Subsidiary to Guarantee the Notes (or any holder of Capital Stock of such Subsidiary to pledge such Capital Stock pursuant to § 9(i)(iv)) to the extent that such Note Guarantee by such Subsidiary would reasonably be expected to give rise to or result in a violation of applicable law or regulatory requirements which, in any case, cannot be prevented or otherwise avoided through measures reasonably available to the Issuer or the Subsidiary (including "whitewash" or similar procedures) or any liability for the officers, directors or shareholders of such Subsidiary.

(iv) Simultaneously with the execution of such Note Guarantee in accordance with § 9(i)(i), the Issuer will cause all of the Capital Stock in such Subsidiary owned by the Issuer and the Subsidiaries to be pledged to secure the Notes and the Note Guarantees.

(v) A Note Guarantee provided pursuant to § 9(i)(i) and any Collateral pledged pursuant to § 9(i)(iv) shall be released at the option of the Issuer if at the date of such release there is no Indebtedness of such Guarantor outstanding which was Incurred after the Amendment Effective Date and which could not have been Incurred in compliance with the Terms and Conditions if such Guarantor had not been designated as a Guarantor.

(j) *Limitation on Lines of Business*. The Issuer shall not, and shall not permit any Subsidiary to, engage in any business other than a Related Business, except as would not be material to the Issuer and its Subsidiaries taken as a whole.

(k) *No Layering of Debt*. Neither the Issuer nor any Guarantor will incur any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Issuer or such Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Notes and the applicable Guarantee on substantially identical terms; provided, however, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Issuer or any Guarantor solely by virtue of being unsecured or by virtue of being secured with different collateral or by virtue of being secured on a junior priority basis or by virtue of the application of waterfall or other payment ordering provisions affecting different tranches of Indebtedness.

(l) *Maintenance of Admission to Trading*. The Issuer will use its commercially reasonable efforts to obtain and/or maintain the admission to trading of the Notes in the unregulated market (*Freiverkehr*) of the Frankfurt Stock Exchange or, at the Issuer's election, the regulated market of the Luxembourg Stock Exchange for so long as any Notes are outstanding; *provided* that if the Issuer is unable to obtain such admission to trading or if at any time the Issuer determines that it will not maintain such admission to trading or listing, it will use its commercially reasonable efforts to obtain and maintain an admission to trading or listing of the Notes on another recognized stock exchange (which may be another stock exchange that is not regulated by the European Union).

(m) *Impairment of Security Interests.*

(i) The Issuer will not, and will not cause or permit any of its Subsidiaries to, take or knowingly or negligently omit to take, any action which action or omission would have the result of materially impairing the security interest with respect to the Collateral (it being understood that the Incurrence of Liens on the Collateral permitted by the definition of "*Permitted Collateral Liens*" shall under no circumstances be deemed to materially impair the security interest with respect to the Collateral) for the benefit of the Noteholders' Representative and the Noteholders, and the Issuer will not, and will not cause or permit any of its Subsidiaries to, grant to any Person other than the Security Trustee, for the benefit of the Noteholders and the other beneficiaries described in the Security Documents and the Intercreditor Agreement, any interest whatsoever in any of the Collateral; provided that

(A) the Collateral may be discharged, transferred or released in accordance with the Terms and Conditions, the Intercreditor Agreement and the Security Documents; and

(B) the Issuer and its Subsidiaries may Incur Permitted Collateral Liens.

Except where permitted by the Terms and Conditions or the Intercreditor Agreement, no Security Document may be amended, extended, renewed, restated, supplemented or otherwise modified or released, unless contemporaneously with such amendment, extension, renewal, restatement, supplement or modification or release (to be followed by an immediate retaking of a Lien of at least equivalent ranking over the same assets), the Issuer delivers to the Security Trustee either:

(1) a solvency opinion from an accounting, appraisal or investment banking firm of national standing confirming the solvency of the Issuer and its Subsidiaries, taken as a whole, after giving effect to any transactions related to such amendment, extension, renewal, restatement, supplement, release, modification or replacement;

(2) a certificate from the chief executive officer, chief financial officer or the Board of Directors of the relevant Person, which confirms the solvency of the person granting security interest after giving effect to any transactions related to such amendment, extension, renewal, restatement, supplement, modification or replacement; or

(3) an Opinion of Counsel (subject to customary exceptions and qualifications), confirming that, after giving effect to any transactions related to such amendment, extension, renewal, restatement, supplement, modification or release, the Lien or Liens securing the Notes created under the Security Documents so amended, extended, renewed, restated, supplemented, modified or released are valid and perfected Liens not otherwise subject to any limitation, imperfection or new hardening period, in equity or at law, and that such Lien or Liens were not otherwise subject to immediately prior to such amendment, extension, renewal, restatement, supplement, modification or release.

(ii) Notwithstanding § 9(m)(i) which shall not apply to the actions described in this § 9(m)(ii), at the direction of the Issuer and without the consent of any Noteholder or the Noteholders' Representative, the Security Trustee may from time to time enter into one or more amendments to the Security Documents to:

(A) cure any ambiguity, omission, defect or inconsistency therein;

(B) provide for Permitted Collateral Liens to the extent permitted by the Terms and Conditions;

(C) add to the Collateral;

(D) comply with the terms of the Intercreditor Agreement;

(E) evidence the succession of another Person to the Issuer and the assumption by such successor of the obligations the Terms and Conditions, the Notes and the Security Documents, in each case, in accordance with § 9(h) (*Merger and Consolidation*);

(F) provide for the release of property and assets constituting Collateral from the Lien of the Security Documents or the release of a Note Guarantee granted by a Guarantor, in each case, in accordance with (and if permitted by) the terms of the Terms and Conditions and the Intercreditor Agreement;

(G) conform the Security Documents to the Terms and Conditions;

(H) evidence and provide for the acceptance of the appointment of a successor Noteholders' Representative or Security Trustee; or

(I) make any other change thereto that does not adversely affect the rights of the Noteholders in any material respect.

(iii) In the event that the Issuer complies with this § 9(m), the Noteholders' Representative and the Security Trustee shall (subject to customary protections and indemnifications) consent to such amendment, extension, renewal, restatement, supplement, modification or replacement with no need for instructions from Noteholders. The Noteholders' Representative will only grant such consent after it has received an Officer's Request Certificate of the Issuer confirming that the Issuer complies with this § 9(m).

(n) *Security*. The Issuer shall, and shall procure that each Guarantor shall, at its own expense, execute and do all such acts and things and provide such assurances as the Security Trustee may reasonably require

(i) for registering any Security Documents in any required register and for perfecting or protecting the security intended to be afforded by such Security Documents; and

(ii) if such Security Documents have become enforceable, for facilitating the realization of all or any part of the assets which are subject to such Security Documents and for facilitating the exercise of all powers, authorities and discretions vested in the Security Trustee or in any receiver of all or any part of those assets. The Issuer shall, and shall procure that each Guarantor shall, execute all transfers, conveyances, assignments and releases of that property whether to the Security Trustee or to its nominees and give all notices, orders and directions which the Security Trustee may reasonably request.

(o) *Cash-Pooling*. The Issuer shall use best efforts to establish a cash pool for the Issuer and its Subsidiaries (other than any Subsidiaries which are, in the good faith determination of the Issuer, not able or permitted to participate in such cash pool as a result of restrictions under applicable law or regulatory requirements or if their inclusion in the cash pool would significantly impede or delay the establishment of a cash pool); provided that the Issuer shall in no event be required to establish such cash pool prior to the date that falls six months after the later of (i) the Amendment Effective Date, and (ii) the date of the audit of the Issuer's annual consolidated financial statements for the year ended 31 December 2022.

(p) *Trapped Cash*. If the aggregate amount of Trapped Cash (i) on any Relevant Date for purposes of determining any Relevant Proceeds or (ii) as included in any Cashflow Forecast, equals or exceeds an amount of EUR 20 million, such amount shall as soon as reasonably practicable be validated and confirmed ("**Trapped Cash Validation**") by FTI-Andersch AG or any successor restructuring advisor of recognized standing, which confirmation shall be delivered to the Noteholders' Representative; provided that no Trapped Cash Validation shall be required pursuant to sub-paragraph (ii) above if a Cashflow Forecast relates to the end of a fiscal quarter that is an Interest Payment Date and the Issuer is required to deliver a Trapped Cash Validation with respect to the Relevant Date for such Interest Payment Date.

(q) *Amendments to Intercreditor Agreement*. At the direction of the Issuer and without the consent of Noteholders, the Noteholders' Representative and the Security Trustee shall from time to time enter into one or more amendments to the Intercreditor Agreement to: (i) add Subsidiaries to the Intercreditor Agreement, (ii) further secure the Notes, (iii) implement any Permitted Collateral Liens, (iv) cure defects and manifest errors, resolve ambiguities or reflect changes, in each case, of a minor, technical or administrative nature or (v) amend the Intercreditor Agreement in accordance with the terms thereof provided that such amendment does not adversely affect the rights of the Noteholders in any material respect.

§ 10 TERMINATION RIGHTS OF THE NOTEHOLDERS IN CASE OF AN EVENT OF DEFAULT

(a) Each of the following constitutes an "**Event of Default**":

(i) default in any payment of interest or Additional Amounts, if any, on any Note when due and payable, continued for 30 days;

(ii) default in the payment of principal of or premium, if any, on the Notes when due and payable at the Maturity Date, upon redemption, upon required repurchase, upon acceleration or otherwise;

(iii) failure by the Issuer or any of the Guarantors to comply with any obligation set forth in § 9(h) (*Merger and Consolidation*) continued for 30 days;

(iv)

(A) in relation to any failure by the Issuer to meet any Milestone (a "**Missed Milestone**"), failure by the Issuer to meet such Missed Milestone after notice from the Noteholders' Representative (upon instruction by Noteholders of at least 25 per cent. in aggregate principal amount of the Notes then outstanding) within the Relevant Cure Period; or

(B) in relation to other obligations of the Issuer or any of the Guarantors contained in the Terms and Conditions or any Note Guarantee, failure by the Issuer or any of the Guarantors to comply for 60 days after notice from the Noteholders' Representative (upon instruction by Noteholders of at least 25 per cent. in aggregate principal amount of the Notes then outstanding) with such other obligations;

(v) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for borrowed money by the Issuer or any of its Subsidiaries (or the payment of which is guaranteed by the Issuer or any of its Subsidiaries), other than Indebtedness owed to the Issuer or a Subsidiary, whether such Indebtedness or guarantee now exists, or is created after the date of the Terms and Conditions, which default:

(A) is caused by a failure to pay when due principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of any applicable grace period provided for under the terms of such Indebtedness ("**Payment Default**"); or

(B) results in the acceleration of such Indebtedness prior to its maturity;

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated aggregates EUR 5 million or more;

(vi) the Issuer, a Guarantor, a Material Subsidiary or a group of Subsidiaries that, taken together (as of the latest consolidated financial statements for the Issuer and its Subsidiaries), would constitute a Material Subsidiary, pursuant to or within the meaning of any applicable bankruptcy law:

(A) commences judicial proceedings to be adjudicated bankrupt or insolvent under applicable bankruptcy law or files for the commencement of any preliminary proceedings including preliminary protective proceedings (*Schutzschirmverfahren*);

(B) consents to the institution of bankruptcy or insolvency proceedings against it under applicable bankruptcy law, or preliminary proceedings including preliminary protective proceedings (*Schutzschirmverfahren*);

(C) consents to the appointment of a custodian (Sachwalter) or preliminary custodian (*vorläufiger Sachwalter*) of it or for all or substantially all of its property; or

(D) admits in writing that it is unable to pay its debts as they become due (but only if and to the extent it is required to file for insolvency or bankruptcy proceedings as a result thereof);

(vii) a court of competent jurisdiction enters an order or decree under any applicable bankruptcy law that:

(A) is for relief against the Issuer, a Guarantor, a Material Subsidiary or a group of Subsidiaries that, taken together (as of the latest consolidated financial statements for the Issuer and its Subsidiaries), would constitute a Material Subsidiary, in a judicial proceeding (including any respective preliminary proceedings) in which the Issuer, a Guarantor, a Material Subsidiary or a group of Subsidiaries that, taken together, would constitute a Material Subsidiary, has been adjudicated bankrupt or insolvent under applicable bankruptcy law (or in respect of which any proceedings including preliminary proceedings or preliminary protective proceedings (*Schutzschirmverfahren*) have been commenced);

(B) appoints a custodian or preliminary custodian for the Issuer, a Guarantor, a Material Subsidiary or a group of Subsidiaries that, taken together (as of the latest consolidated financial statements for the Issuer and its Subsidiaries), would constitute a Material Subsidiary, or for all or substantially all of the property of the Issuer, a Guarantor, a Material Subsidiary or a group of Subsidiaries that, taken together, would constitute a Material Subsidiary; or

(C) orders the liquidation of the Issuer, a Guarantor, a Material Subsidiary or a group of Subsidiaries that, taken together (as of the latest consolidated financial statements for the Issuer and its Subsidiaries), would constitute a Material Subsidiary and the order or decree remains unstayed and in effect for 60 consecutive days;

(viii) failure by the Issuer or any Subsidiary to pay final judgments aggregating in excess of EUR 1 million (net of any amounts that are covered by insurance policies issued by reputable and creditworthy insurance companies), which judgments are not paid, discharged or stayed for a period of 60 days after the judgment exceeding such threshold becomes final;

(ix) any Note Guarantee of any Guarantor ceases to be in full force and effect (except as contemplated by the terms of such Note Guarantee or the Terms and Conditions or as provided under applicable law) or is declared null and void in a judicial proceeding or the Issuer or any Guarantor denies or disaffirms in writing or in any pleading in any court its obligations under the Terms and Conditions or its Note Guarantee and any such Default continues for 60 days; or

(x) with respect to any Collateral having a Fair Market Value in excess of EUR 1 million, individually or in the aggregate, (i) (x) the security interest under the Terms and Conditions or the Security Documents, at any time, ceases to be in full force and effect for any reason other than in accordance with the terms of the Security Documents and other than the satisfaction in full of all obligations under the Notes, or (y) any security interest created thereunder or under the Security Documents is declared invalid or unenforceable and such Default continues for 20 days after the Issuer becomes aware of the Default or (ii) the Issuer or any Guarantor asserts that any such security interest or Security Document is invalid or unenforceable prior to the time that the Collateral is to be released to the Issuer or the Guarantors; or.

(xi) the occurrence of any effect, event, circumstance or change, or any facts or developments becoming evident, after the Amendment Effective Date as a consequence of which (individually or together and after taking into account all factors and circumstances) the successful sustainable restructuring (*Sanierung*) of the Company and the Group within a reasonable time frame pursuant to the requirements of the jurisprudence of the German

Federal Supreme Court (*Bundesgerichtshof*) and the *IDW Standard: Anforderungen an Sanierungskonzepte* (IDW S6) promulgated by the German Institute for Public Accounts (*Institut der Wirtschaftsprüfer in Deutschland e.V.*) was not, or ceases to be, more likely than not; or

(xii) Mr. Nedim Cen (or any successor as Chief Executive Director to whom the Noteholders' Representative (acting upon instruction of Noteholders of at least 50 per cent. in principal amount of all outstanding Notes) has given its prior written consent) ceasing to be a member of the Board of Directors of the Issuer as Chief Executive Officer or the chairperson of the supervisory board of the Issuer as of the Amendment Effective Date (or any successor to whom the Noteholders' Representative (acting upon instruction of Noteholders of at least 50 per cent. in principal amount of all outstanding Notes) ceasing to be a member of the supervisory board of the Issuer as chairperson, in each case if the Noteholders' Representative (acting upon instruction of Noteholders of at least 50 per cent. in principal amount of all outstanding Notes) has elected that such event shall constitute an Event of Default within three (3) months from the date of such cessation, provided that such election right shall expire if (i) a replacement is appointed to the Board of Directors of the Issuer and/or supervisory board of the Issuer within three (3) months from the date of such cessation to whom the Noteholders' Representative (acting upon instruction of Noteholders of at least 50 per cent. in principal amount of all outstanding Notes) has given its prior written consent and (ii) such replacement enjoys the same power of representation and delegation of responsibilities as the replaced Chief Executive Officer or the chairperson of the supervisory board, as the case may be.

(b) No Event of Default shall have occurred, and the Noteholders shall not be entitled to declare the Notes due:

(i) pursuant to § 10(a)(v) above, if the termination right is or would have been triggered solely with respect to (x) any Indebtedness of Ginova HoldCo S.à r.l., Ginova PropCo S.à r.l., HFS Helvetic Financial Services AG and/or Corestate Capital Services GmbH, (y) any security granted for such indebtedness of Ginova HoldCo S.à r.l., Ginova PropCo S.à r.l., HFS Helvetic Financial Services AG and/or Corestate Capital Services GmbH or (z) a guarantee assumed for such indebtedness of Ginova HoldCo S.à r.l., Ginova PropCo S.à r.l., HFS Helvetic Financial Services AG and/or Corestate Capital Services GmbH; and/or

(ii) pursuant to § 10(a)(vi), (vii) and (viii) above, if the termination right is or would have been triggered solely by the bankruptcy event or other relevant proceedings, events or measures referred to therein in relation to Ginova HoldCo S.à r.l., Ginova PropCo S.à r.l., HFS Helvetic Financial Services AG and/or Corestate Capital Services GmbH and, in addition, pursuant to § 10(a)(x) above, if the termination right is or would have been triggered solely with respect to any Collateral by or in relation to HFS Helvetic Financial Services AG and/or Corestate Capital Services GmbH.

(c) If an Event of Default (other than an Event of Default pursuant to the foregoing sub-paragraphs (vi), (vii) or (xii) of § 10(a)) occurs and is continuing, the Noteholders' Representative upon instruction of Noteholders of at least 25 per cent. in principal amount of all outstanding Notes by notice to the Issuer shall terminate the Notes and declare the principal amount of and all accrued interest under all outstanding Notes to be due and payable immediately. § 10(g) shall apply.

(d) In the event of a declaration of acceleration of the Notes because an Event of Default pursuant to sub-paragraph (v) of § 10(a) has occurred and is continuing, the declaration of acceleration of the Notes shall be automatically annulled if the relevant default triggering such Event of Default pursuant to sub-paragraph (v) of § 10(a) is remedied or cured by the Issuer or a Subsidiary or waived by the holders of the relevant Indebtedness, or the relevant Indebtedness that gave rise to such Event of Default has been discharged in full, within 20 days after the declaration of acceleration with respect thereto and if (i) the annulment of the acceleration of the Notes would not conflict with any judgment or decree of a court of competent jurisdiction and (ii) all existing Events of Default, except non-payment of principal, premium, or interest on the Notes that became due solely because of the acceleration of the Notes, have been cured or waived.

(e) If an Event of Default with respect to the Issuer pursuant to the foregoing sub-paragraphs (vi) and (vii) of § 10(a) occurs and is continuing, the Notes will automatically be terminated and all payments under the Notes will become due and payable immediately without any declaration or other act on the part of the Noteholders' Representative or any Noteholders and, for the avoidance of doubt, irrespective of whether a declaration of acceleration of the Notes has been given to the Issuer pursuant to § 10(c) above. § 10(g) shall apply.

(f) If an Event of Default with respect to the Issuer pursuant to the foregoing sub-paragraph (xii) of § 10(a) occurs and is continuing, each Noteholder shall be entitled to terminate the Notes held by it and all payments under such Notes will become due and payable immediately without any declaration or other act on the part of the Noteholders' Representative or any Noteholders and, for the avoidance of doubt, irrespective of whether a declaration of acceleration of the Notes has been given to the Issuer pursuant to § 10(c) above. § 10(g) shall apply.

(g) The obligation of the Issuer to make payments under the Notes pursuant to § 10(c) and § 10(e) shall be suspended for the duration of any Consultation Period (as defined in the Intercreditor Agreement).

(h) Subject to the Terms and Conditions and applicable law, the Noteholders may rescind any acceleration with respect to the Notes and its consequences within three months of the acceleration by simple majority vote of the Noteholders if such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; provided, however, that the aggregate of such cast votes exceeds the number of votes having required the acceleration.

(i) Notwithstanding anything to the contrary herein, if a Default occurs for a failure to deliver a required certificate in connection with another default (an "**Initial Default**"), then at the time such Initial Default is cured, such Default for failure to report or deliver a required certificate in connection with the Initial Default will also be cured without any further action.

(j) Except to enforce the right to receive payment of principal, premium, if any, or interest when due, no Noteholder may pursue any remedy with respect to the Terms and Conditions or the Notes unless:

(i) such Noteholder has previously given the Noteholders' Representative notice that an Event of Default is continuing;

(ii) Noteholders of at least 25 per cent. in principal amount of the outstanding Notes have requested the Noteholders' Representative to pursue the remedy;

(iii) the Noteholders' Representative has not complied with such request within 60 days following the receipt of the request; and

(iv) the Noteholders of a majority in principal amount of the outstanding Notes have not within such 60 day period given the Noteholders' Representative a direction that, in the opinion of the Noteholders' Representative, is inconsistent with such request.

(k) Subject to the Terms and Conditions and applicable law, the Noteholders of a majority in aggregate principal amount of the outstanding Notes are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the Noteholders' Representative or of exercising any trust or power conferred on the Noteholders' Representative.

(l) The Issuer shall deliver to the Noteholders' Representative for delivery to the Noteholders in accordance with the procedures set forth in § 12 (*Notices*), within 120 days after the end of each fiscal year (and within 20 Business Days upon request at any time after the 120 days), an Officer's Request Certificate stating whether the signers thereof know of any Default that occurred during the previous year. The Issuer is also required to deliver to the Noteholders' Representative for delivery to the Noteholders in accordance with the procedures set forth in § 12 (*Notices*), after becoming aware of the occurrence thereof, written notice of any events of which it is aware which would constitute Defaults, their status and what action the Issuer is taking or proposes to take in respect thereof.

(m) If an Event of Default occurs and is continuing, the Noteholders' Representative may, or subject to the provisions of the Intercreditor Agreement with respect to any Note Guarantee and, the Collateral, the Security Trustee, may

(i) in its sole discretion, but shall not be required to, proceed to protect and enforce the rights of the Noteholders by such appropriate judicial proceedings as the Noteholders' Representative or the Security Trustee, as applicable, shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in the Terms and Conditions or any Note Guarantee or in aid of the exercise of any power granted herein, or to enforce any other proper remedy, including making demand under one or more of the Note Guarantees on behalf of the Noteholders; and

(ii) prosecute and enforce all rights of action and claims under the Terms and Conditions or any Note Guarantee without the possession of any of the Notes or the Global Note or the production thereof in any proceeding relating thereto, and to bring any such proceeding on behalf of the Noteholders.

§ 11 PAYING AGENTS

(a) BNP Paribas Securities Services S.C.A., Zweigniederlassung Frankfurt am Main will be the principal paying agent (the "**Principal Paying Agent**", and together with any additional paying agent appointed by the Issuer in accordance with § 11(b), the "**Paying Agents**").

The address of the specified offices of the Principal Paying Agent is:

BNP Paribas Securities Services S.C.A.
Zweigniederlassung Frankfurt
Europa-Allee 12
60327 Frankfurt am Main
Federal Republic of Germany

Each Paying Agent shall be exempt from the restrictions set forth in Section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions of other applicable laws.

In no event will the specified office of any Paying Agent be within the United States.

(b) The Issuer will procure that there will at all times be a principal paying agent. The Issuer is entitled to appoint other banks of international standing as Paying Agents. Furthermore, the Issuer is entitled to terminate the appointment of any Paying Agent. In the event of such termination or such Paying Agent being unable or unwilling to continue to act as Paying Agent in the relevant capacity, the Issuer will appoint another bank of international standing as paying agent. Such appointment or termination will be published without undue delay in accordance with § 12 (*Notices*), or, should this not be possible, be published in another appropriate manner.

(c) All determinations, calculations and adjustments made by any Paying Agent will be made in conjunction with the Issuer and will, in the absence of manifest error, be conclusive in all respects and binding upon the Issuer and all Noteholders.

(d) Each Paying Agent may engage the advice or services of any lawyers or other experts whose advice or services it deems necessary, and may rely upon any advice so obtained. No Paying Agent will incur any liability as against the Issuer or the Noteholders in respect of any action taken or not taken, or suffered to be taken or not taken, in accordance with such advice in good faith.

(e) Each Paying Agent acting in such capacity acts only as agent of, and upon request from, the Issuer. There is no agency or fiduciary relationship between any Paying Agent and the Noteholders, and no Paying Agent shall incur any liability as against the Noteholders or any other Paying Agent.

§ 12 NOTICES

(a) The Issuer will, subject to § 15(f), publish all notices concerning the Notes on its homepage (www.corestate-capital.com). Any such notice will be deemed to have been given when so published by the Issuer.

(b) If the Notes are listed on any stock exchange and the rules of that stock exchange so require, all notices concerning the Notes will be made, subject to § 15(f), in accordance with the rules of the stock exchange on which the Notes are listed.

(c) In addition, the Issuer will deliver all notices concerning the Notes to the Clearing System for communication by the Clearing System to the Noteholders. Any such notice will be deemed to have been given on the third calendar day after the day on which the said notice was delivered to the Clearing System.

(d) A notice effected in accordance with § 12(a) to (c) above will be deemed to be effected on the day on which the first such communication is, or is deemed to be, effective.

(e) Subject to § 15(f), all notices regarding the Notes to be given by the Issuer to the Noteholders' Representative shall be made by way of email and shall be delivered to the following email address: andreas.ziegenhagen@dentons.com. Any such notice will be deemed to have been given when sent to such email address.

(f) Subject to § 15(f), all notices to be given by the Noteholders' Representative to the Noteholders shall be made by (i) email to the email address communicated by any relevant Noteholder to the Noteholders' Representative or (ii) through the Clearing System. Any such notice will be deemed to be given, in case of sub-clause (i), when sent to such email address or, in case of sub-clause (ii), on the third calendar day after the day on which the said notice was delivered to the Clearing System.

§ 13 ISSUE OF ADDITIONAL NOTES

The Issuer reserves the right from time to time, without the consent of the Noteholders, to issue additional Notes with identical terms (if applicable, save for, *inter alia*, the issue date, the interest commencement date and the first interest payment date), so that the same will be consolidated, form a single issue with and increase the aggregate principal amount of these Notes, provided that the Issuer shall only issue such additional Notes in exchange for cash consideration equal to the aggregate principal amount of the additional Notes. The term "Notes" will, in the event of such increase, also comprise such additionally issued Notes.

§ 14 PRESENTATION PERIOD, PRESCRIPTION

The period for presentation of the Notes pursuant to Section 801(1) sentence 1 of the German Civil Code (*Bürgerliches Gesetzbuch*) is reduced to 10 years. The period of limitation for claims under the Notes presented during the period for presentation will be two years calculated from the expiration of the relevant presentation period.

§ 15 AMENDMENTS TO THE TERMS AND CONDITIONS BY RESOLUTION OF THE NOTEHOLDERS; NOTEHOLDERS' REPRESENTATIVE

(a) The Issuer may agree with the Noteholders on amendments to the Terms and Conditions or the Intercreditor Agreement, the Note Guarantees and the Security Documents which require such consent by the Noteholders or on other matters by virtue of a majority resolution of the Noteholders pursuant to Section 5 *et seqq.* of the German Act on Issues of Debt Securities (*Gesetz über Schuldverschreibungen aus Gesamtemissionen* – "**SchVG**"), as amended from time to time. In particular, the Noteholders may consent to amendments which materially change the substance of the Terms and Conditions, including such measures as provided for under Section 5(3) SchVG by resolutions passed by such majority of the votes of the Noteholders as stated under § 15(b). A duly passed majority resolution shall be binding equally upon all Noteholders.

(b) Except as provided by the following sentence, and provided that the quorum requirements are being met, the Noteholders may pass resolutions by simple majority of the voting rights participating in the vote. Resolutions which materially change the substance of the Terms and Conditions, in particular in the cases of Section 5(3) numbers 1 through 9 SchVG, or relating to material other matters, may only be passed by a majority of at least 75 per cent. of the voting rights participating in the vote (a "**Qualified Majority**").

(c) The Noteholders can pass resolutions (i) in a meeting (*Gläubigerversammlung*) in accordance with Section 9 and Sections 5 *et seqq.* SchVG, or (ii) by means of a vote without a meeting (*Abstimmung ohne Versammlung*) in accordance with Section 18 and Sections 5 *et seqq.* SchVG.

   (i) Attendance at the Noteholders' meeting and exercise of voting rights is subject to the Noteholders' registration. The registration must be received at the address stated in the convening notice no later than the third day preceding the meeting. As part of the registration, Noteholders must provide evidence of their eligibility to participate in the vote by means of a special confirmation of the Custodian in accordance with § 16(d)(i)(A) and (B) in text form and by submission of a blocking instruction by the Custodian stating that the relevant Notes are not transferable from and including the day such registration has been sent until and including the stated end of the meeting.

   (ii) In the case of a vote without a meeting, Noteholders must, when casting their vote, provide evidence of their eligibility to participate in the vote without a meeting by means of a special confirmation of the Custodian in accordance with § 16(d)(i)(A) and (B) in text form and by submission of a blocking instruction by the Custodian stating that the relevant Notes are not transferable from and including the day such vote has been cast until and including the day the voting period ends.

(d) If it is ascertained that no quorum exists for the meeting pursuant to § 15(c)(i) or the vote without a meeting pursuant to § 15(c)(ii), in the case of a meeting, the chairperson (*Vorsitzender*) may convene a second meeting in accordance with Section 15(3) sentence 2 SchVG, or, in the case of a vote without a meeting, the scrutineer (*Abstimmungsleiter*) may convene a second meeting within the meaning of Section 15(3) sentence 3 SchVG. Attendance at the second meeting and exercise of voting rights are subject to the Noteholders' registration. The provisions set out in § 15(c)(i) shall apply *mutatis mutandis* to Noteholders' registration for a second meeting.

(e) Noteholders Representative

(i) The initial holders' representative (the "**Noteholders' Representative**") and its initial specified office is:

Dentons GmbH, Wirtschaftsprüfungsgesellschaft, Steuerberatungsgesellschaft
Markgrafenstraße 33, 10117 Berlin, Germany

The Noteholders' Representative shall be a common noteholders' representative of the Noteholders within the meaning of the SchVG.

(ii) The Noteholders' Representative is obliged, subject to the limitations set forth in this § 15(e), to perform such duties and only such duties as are specifically set forth in the Terms and Conditions, and such additional powers and duties as are granted to it by majority resolution passed pursuant to this § 15 (to the extent such additional powers and duties are expressly accepted by it by written notice to the Issuer). Whether or not an Event of Default has occurred and is continuing, the Noteholders' Representative shall:

(A) execute, in its own name and acting in the interest of the Noteholders, the Intercreditor Agreement on or prior to the Amendment Effective Date;

(B) perform the duties set forth in the Intercreditor Agreement;

(C) solicit a vote of Noteholders without a meeting as soon as reasonably practicable upon (i) a request from the Security Trustee for a decision, instruction or consent of Noteholders required under the Intercreditor Agreement, (ii) the giving by the Noteholders' Representative of notice of its resignation for the purpose of the appointment of a successor Noteholders' Representative, (iii) to obtain, if deemed necessary by the Noteholders' Representative, instructions from the Noteholders with respect to any action to be taken by the Noteholders' Representative, (iv) the delivery of an Initial Enforcement Notice (as defined in the Intercreditor Agreement) by any holders' representative for any other Secured Notes or the commencement of the Consultation Period (as defined in the Intercreditor Agreement), or (v) as required by law;

(D) in connection with any voting of Noteholders perform the duties of the chairperson or the scrutineer (*Abstimmungsleiter*) as set forth in the SchVG; and

(E) provide the Security Trustee with any decision, instruction or consent with respect to the Intercreditor Agreement based on a majority resolution of Noteholders passed in accordance with this § 15.

If an Event of Default has occurred and is continuing of which the Noteholders' Representative has been notified in writing by the Issuer, any Guarantor, any party to the Intercreditor Agreement or any Noteholder, the Noteholders' Representative shall exercise such of the rights and powers vested in it by the Terms and Conditions, subject to such rights or powers being qualified, limited or otherwise affected by the provisions of the Intercreditor Agreement, and use the same degree of diligence and care in its exercise as a prudent business manager (*ordentlicher und gewissenhafter Geschäftsleiter*) within the meaning of Section 7(3) sentence 1 SchVG would exercise or use under the circumstances; provided that the exercise of such rights and powers shall not be inconsistent with any majority resolution passed by the Noteholders in accordance with this § 15.

Furthermore, the Noteholders' Representative shall take any action under the Intercreditor Agreement only upon instruction by the Noteholders pursuant to the terms of the Terms and Conditions. If the Noteholders' Representative is requested by the Security Trustee or any Noteholder for a decision, instruction or consent to be made under the Intercreditor Agreement, it will take any such action only if being validly instructed by the Noteholders in accordance with the terms of the Terms and Conditions. Should it not be possible to obtain such instruction by the Noteholders in time or at all, the Noteholders' Representative shall not be required to take any such action under the Intercreditor Agreement.

No provision of the Terms and Conditions shall require the Noteholders' Representative to do anything which would be illegal or contrary to applicable law or regulation. Under no circumstances will the Noteholders' Representative be responsible or liable for (i) investigating or assessing the suitability, value, sufficiency, validity, binding nature, or enforceability of the Note Guarantee or any Collateral, (ii) making any inquiries as to the performance of the obligations of the Issuer, any Guarantor and/or any of the Subsidiaries, or (iii) monitoring the performance by the Security Trustee of its obligations or assessing the validity, sufficiency or adequacy of any instruction given to the Security Trustee by any other person, or (iv) the sufficiency, adequacy or correctness of any information or document delivered to it for on-delivery to the Noteholders in accordance with the Terms and Conditions.

The Noteholders' Representative shall be exempt from the restrictions set forth in Section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*).

(iii) The Noteholders' Representative shall be liable for the proper performance of its duties towards the Noteholders who shall be joint and several creditors (*Gesamtgläubiger*); in the performance of its duties it shall act with the diligence and care of a prudent business manager (*ordentlicher und gewissenhafter Geschäftsleiter*) within the meaning of Section 7(3) SchVG. The liability of the Noteholders' Representative is limited to wilful misconduct and gross negligence. The liability for gross negligence is limited to an amount of EUR 10,000,000.

(iv) Subject to § 15(e)(ii) and (iii) above:

(A) the Noteholders' Representative may rely, and shall be protected in acting or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper person;

(B) before the Noteholders' Representative acts or refrains from acting, it may require an officer's certificate of the Issuer or an opinion of legal counsel in form and substance reasonably satisfactory to the Noteholders' Representative. The Noteholders' Representative shall not be liable for any action it takes or omits to take in good faith in reliance on such officer's certificate of the Issuer or opinion of legal counsel;

(C) the Noteholders' Representative shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Noteholders' Representative, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Noteholders' Representative shall determine to make such further inquiry or investigation, it shall be entitled at reasonable times upon written request to examine the books, records and premises of the Issuer personally or by agent or attorney; and

(D) the Noteholders' Representative may request that the Issuer deliver an officer's certificate of the Issuer setting forth the names of the individuals and/or titles of officers authorized at such time to take specified actions pursuant to the Terms and Conditions.

(v) The Issuer shall pay to the Noteholders' Representative fees, costs, expenses and disbursements (including appropriate insurance cover and any costs for legal advice incurred) as separately agreed between the Issuer and the Noteholders' Representative.

(vi) The Noteholders' Representative may be removed from office at any time by majority resolution of the Noteholders in accordance with this § 15 without specifying any reasons.

The Noteholders' Representative may resign at any time by notifying the Issuer in which case the Issuer shall notify the Noteholders in accordance with the procedures set forth in § 12 (*Notices*). If the Noteholders' Representative resigns he shall call a vote without undue delay to elect a successor Noteholders' Representative. A resignation of the Noteholders' Representative shall become effective only upon the appointment, by majority resolution of the Noteholders in accordance with this § 15, of a successor Noteholders' Representative and the successor Noteholders' Representative's acceptance of such appointment.

A successor Noteholders' Representative shall deliver a written acceptance of its appointment to the Issuer and shall succeed the retiring Noteholders' Representative as a party to the Intercreditor Agreement. Thereupon the resignation or removal of the retiring Noteholders' Representative shall become effective, and the successor Noteholders' Representative shall have all the rights, powers and duties of the Noteholders' Representative under the Terms and Conditions and any reference in the Terms and Conditions shall forthwith be references to such successor Noteholders' Representative. The retiring Noteholders' Representative shall promptly transfer all property held by it as Noteholders' Representative to the successor Noteholders' Representative.

(vii) Within sixty (60) days after each 1 June (a "**Reporting Date**"), beginning with the Reporting Date following the Amendment Effective Date, and for as long as any Notes remain outstanding, the Noteholders' Representative shall furnish to the Principal Paying Agent (who, at the Issuer's expense, will forward to the Noteholders) a report dated as of the relevant Reporting Date, briefly describing any activities relating to the Notes undertaken by the Noteholders' Representative during the twelve-months period ending on such Reporting Date and stating whether or not any of the circumstances described in Section 7(1) SchVG have arisen.

(f) Any notices concerning this § 15 (unless expressly stated otherwise) shall be made exclusively pursuant to the provisions of the SchVG.

§ 16 FINAL CLAUSES

(a) The form and content of the Notes and the rights of the Noteholders and the obligations of the Issuer will in all respects be governed by the laws of the Federal Republic of Germany. Articles 470-3 to 470-19 of the Luxembourg law of 10 August 1915 on commercial companies, as amended, regarding the representation of Noteholders and meetings of Noteholders, do not apply to the Notes. To the fullest extent permitted by applicable law, no Noteholder may initiate any proceedings under Article 470-21 of the Luxembourg act dated 10 August 1915 on commercial companies, as amended.

(b) The place of performance is Frankfurt am Main, Federal Republic of Germany.

(c) To the extent legally permitted, the courts of Frankfurt am Main, Federal Republic of Germany will have jurisdiction for any action or other legal proceedings arising out of or in connection with the Notes. This is subject to any exclusive court of venue for specific legal proceedings in connection with the SchVG.

(d) Any Noteholder may, in any proceedings against the Issuer or to which the Noteholder and the Issuer are parties, protect and enforce, in its own name, its rights arising under its Notes on the basis of:

   (i) a certificate issued by its Custodian:

      (A) stating the full name and address of the Noteholder;

      (B) specifying the aggregate principal amount of Notes credited on the date of such statement to such Noteholder's securities account maintained with such Custodian; and

      (C) confirming that the Custodian has given a notice to the Clearing System and the Principal Paying Agent containing the information specified in § 16(d)(i)(A) and (B) and bearing acknowledgements of the Clearing System and the relevant account holder in the Clearing System; as well as

   (ii) a copy of the Global Note, certified as being a true copy by a duly authorised officer of the Clearing System or the Principal Paying Agent.

Annex 1
Collateral

1. First ranking share pledge over 100 per cent. of the present and future shares in Corestate Capital Group GmbH;
2. first ranking share pledge over 100 per cent. of the present and future shares in Corestate Bank GmbH;
3. first ranking share pledge over 100 per cent. of the present and future shares in Corestate Capital Advisors GmbH;
4. first ranking interest pledge over 94.9 per cent. of the limited partners' interests in Hannover Leasing GmbH & Co. KG;
5. first ranking share pledge over 100 per cent. of the present and future shares in Hannover Leasing Verwaltungsgesellschaft mbH;
6. first ranking share pledge over 100 per cent. of the present and future shares in Corestate Capital AG;
7. first ranking share pledge over 100 per cent. of the present and future shares in HFS Helvetic Financial Services AG;
8. first ranking share pledge over 100 per cent. of the present and future shares in Corestate Capital Services GmbH;
9. first ranking share charge over 100 per cent. of the present and future shares in CRM Students Ltd.;
10. first ranking financial securities account pledge over 100 per cent. of the financial securities account (*compte titres*) on which the shares of Corestate Capital France HoldCo SAS have been deposited;
11. first ranking share pledge over 100 per cent. of the present and future shares in Gabriela HoldCo S.à r.l.;
12. first ranking share pledge over 100 per cent. of the present and future shares in Bego HoldCo S.à r.l.;
13. first ranking share pledge over 100 per cent. of the present and future shares in Ginova HoldCo S.à r.l. (formerly Ginova AIF S.à r.l.);
14. first ranking bank account pledge over all present and future bank accounts of the Issuer;
15. first ranking bank account pledge over all present and future bank accounts of Corestate Capital Group GmbH;
16. first ranking bank account pledge over all present and future bank accounts of Corestate Capital AG;
17. first ranking bank account pledge over all present and future bank accounts of HFS Helvetic Financial Services AG;
18. first ranking bank account pledge over all present and future bank accounts of CRM Students Ltd. (other than any accounts held for and on behalf of clients);
19. first ranking bank account pledge over all present and future bank accounts of STAM Europe SAS;
20. first ranking bank account pledge over all of Corestate Capital Advisors GmbH’s present and future bank accounts (except for Spanish law governed bank accounts of Corestate Capital Advisors GmbH's Spanish branch with Banco de Sabadell, S.A. and Commerzbank AG);

21. first ranking bank account pledge over all of Corestate Capital Services GmbH’s present and future bank accounts;
22. first ranking bank account pledge over all of Gabriela HoldCo S.à r.l.’s present and future bank accounts;
23. first ranking bank account pledge over all of Bego HoldCo S.à r.l.’s present and future bank accounts;
24. first ranking bank account pledge over all of Ginova HoldCo S.à r.l.’s (formerly Ginova AIF S.à r.l.) present and future bank accounts;
25. first ranking pledge over certain senior notes in a nominal amount of EUR 35,500,000 issued by RAW-Ost HC S.à r.l. (ISIN: DE000A3K0AQ5) which are held in custody in a depositary account;
26. first ranking receivables pledge over all of the Issuer’s present and future intra-group claims against Gabriela HoldCo S.à r.l., Bego HoldCo S.à r.l. and Ginova HoldCo S.à r.l. (formerly Ginova AIF S.à r.l.);
27. security assignment of all of the Issuer’s, Corestate Capital Group GmbH’s and HFS Helvetic Financial Services AG’s present and future intra-group claims against any member of the Group (other than Gabriela HoldCo S.à r.l., Bego HoldCo S.à r.l. and Ginova HoldCo S.à r.l. (formerly Ginova AIF S.à r.l.)); and
28. security assignment of Corestate Capital Services GmbH’s bridge loan receivables against Aggregate HH GmbH, AEIOU 102. GmbH, Real Estate Portfolio Consulting AG, Echo HoldCo S.à r.l., Echo HoldCo 2 AIF S.à r.l., North Gate Besitz GmbH, King AIF 2 S.à r.l., CC Gruppe AG, Gröner Group GmbH, Aggregate Deutschland S.A., IOI Beteiligungs GmbH and FOKUS 6. Vermögensverwaltungs GmbH.

Annex 2
Intercreditor Agreement

(*final form to be inserted*)

EXECUTION VERSION

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Dated ____ August 2023

CORESTATE Capital Holding S.A.

(as the Company)

Dentons GmbH Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft

(as Initial Senior Notes 1 Holders Representative)

Dentons GmbH Wirtschaftsprüfungsgesellschaft Steuerberatungsgesellschaft

(as Initial Senior Notes 2 Holders Representative)

MR Treuhand GmbH

(as Initial Super Senior Notes Holders Representative)

Global Loan Agency Services GmbH

(as Security Agent)

and others

INTERCREDITOR AGREEMENT

Milbank LLP
Frankfurt am Main

CONTENTS

Clause **Page**

THIS AGREEMENT is dated ____ August 2023 and made between:

(1) **CORESTATE Capital Holding S.A.**, a public limited company (*société anonyme*) incorporated and existing under the laws of the Grand Duchy of Luxembourg, having its registered office at 4, rue Jean Monnet, L-2180 Luxembourg and registered with the Luxembourg Trade and Companies Register (*Registre de commerce et des sociétés, Luxembourg*) under number B199780 (the "**Company**");

(2) **DENTONS GMBH WIRTSCHAFTSPRÜFUNGSGESELLSCHAFT STEUERBERATUNGSGESELLSCHAFT** as joint representative (*gemeinsamer Vertreter*) of and for the Senior Notes 1 Holders (as defined below) (the "**Initial Senior Notes 1 Holders Representative**");

(3) **DENTONS GMBH WIRTSCHAFTSPRÜFUNGSGESELLSCHAFT STEUERBERATUNGSGESELLSCHAFT** as joint representative (*gemeinsamer Vertreter*) of and for the Senior Notes 2 Holders (as defined below) (the "**Initial Senior Notes 2 Holders Representative**");

(4) **MR TREUHAND GMBH** as joint representative (*gemeinsamer Vertreter*) of and for the Super Senior Notes Holders (as defined below) (the "**Initial Super Senior Notes Holders Representative**");

(5) **THE ENTITIES** named in Part 1 (*The Original Intra-Group Lenders*) of Schedule 1 (*The Parties*) as original intra-group lenders (together with the Company, the "**Original Intra-Group Lenders**");

(6) **THE ENTITIES** named in Part 2 (*The Original Debtors*) of Schedule 1 (*The Parties*) as original debtors (together with the Company, the "**Original Debtors**");

(7) upon accession, each "**Subordinated Creditor**";

(8) upon accession, each "**Third Party Security Provider**"; and

(9) **Global Loan Agency Services GmbH** as security trustee for the Secured Parties (the "**Security Agent**").

SECTION 1
INTERPRETATION

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Acceleration Event**" means any Primary Creditor (or any group of Primary Creditors) (as the case may be) exercising any right to accelerate or otherwise declare prematurely due, and/or demand immediate redemption of, any Notes Liabilities (or any part thereof).

"**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.

"**Agent**" means each Holders Representative and the Security Agent.

"**Applicable Rate of Exchange**" means, in respect of the conversion of one currency (the "**First Currency**") into another currency (the "**Second Currency**"), the applicable rate of exchange displayed on the appropriate page of the Reuters screen (calculated as the arithmetic mean of quotes by European contributors) for the purchase of the Second Currency with the First Currency in the Frankfurt am Main foreign exchange market at or about 11:00 am (German time) on a particular day, which shall be notified by the Security Agent in accordance with paragraph (e) of Clause 16.7 (*Duties of the Security Agent*). If the agreed page is replaced or service ceases to be available, the Security Agent may specify another page or service displaying the appropriate rate after consultation with the Company and the Primary Creditors.

"**Appropriation**" means the appropriation of, or any notice of initiation of enforcement of a pledge (or similar enforcement process) over, the shares in the capital of a member of the Group by the Security Agent which is effected (to the extent permitted under the relevant Security Document and applicable law) by enforcement of Transaction Security.

"**Borrowing Liabilities**" means, in relation to a member of the Group, the liabilities and obligations (not being Guarantee Liabilities) it may have as a principal debtor to a Creditor (other than to any Agent) or a Debtor in respect of Financial Indebtedness arising under the Debt Documents (whether incurred solely or jointly and including liabilities and obligations as an issuer of notes under the Notes Finance Documents).

"**Business Day**" means ” means any day which is a day (other than a Saturday or a Sunday) on which (i) banks are open for general business in Frankfurt, Luxembourg and London, and (ii) Clearstream Banking AG or any successor clearing system as well as all relevant parts of the the real time gross settlement system operated by the Eurosystem (T2) or any successor system are operational to forward payments in euro.

"**Capital Stock**" of any person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such person (but excluding any debt securities convertible into such equity).

"**Cash Proceeds**" means:

(a) proceeds of the Security Property which are in the form of cash; and

(b) any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any proceeds of the Security Property which are in the form of Non-Cash Consideration.

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

"**Civil Code**" means the German Civil Code (*Bürgerliches Gesetzbuch*).

"**Code of Civil Procedure**" means the German Code of Civil Procedure (*Zivilprozessordnung*).

"**Common Currency**" means euro.

"**Common Currency Amount**" means, in relation to an amount, that amount converted (to the extent not already denominated in the Common Currency) into the Common Currency at the Applicable Rate of Exchange on the Business Day prior to the relevant calculation.

"**Competitive Sales Process**" means

(a) any auction or other competitive sales process conducted with the advice of a Financial Adviser appointed by, or approved by, the Security Agent pursuant to Clause 12.5 (*Appointment of Financial Adviser*); and

(b) any enforcement of the Transaction Security carried out by way of auction or other competitive sales process pursuant to requirements of applicable law.

"**Consent**" means any consent, approval, release or waiver or agreement to any amendment.

"**Creditor/Holders Representative Accession Undertaking**" means:

(a) an undertaking substantially in the form set out in Schedule 4 *(Form of Creditor/Holders Representative Accession Undertaking*); or

(b) in the case of an acceding Debtor which is expressed to accede as an Intra-Group Lender in the relevant Debtor/Third Party Security Provider Accession Document, that Debtor/Third Party Security Provider Accession Document.

"**Creditors**" means the Primary Creditors, the Subordinated Creditors and the Intra-Group Lenders.

"**Debt Disposal**" means any disposal of any Liabilities or Debtors' Intra-Group Receivables pursuant to paragraphs (d) or (e) of Clause 12.1 (*Facilitation of Distressed Disposals and Appropriation*).

"**Debt Document**" means each of this Agreement, any Notes Finance Documents, any Security Documents, any Guarantee Agreements, any Fee Letter, any agreement evidencing the terms of any Intra-Group Liabilities, any agreement evidencing the terms of any Subordinated Liabilities and any other document designated as such by the Security Agent and the Company.

"**Debtor**" means each Original Debtor and any person which becomes a Party as a "Debtor" in accordance with the terms of Clause 18 (*Changes to the Parties*) but no person that has ceased to be a Party in accordance with the terms of Clause 18 (*Changes to the Parties*).

"**Debtors', Intra-Group Lenders', Subordinated Creditors' and Third Party Security Providers' Agent**" means the Company, appointed to act on behalf of any Debtor, Intra-Group Lender, Subordinated Creditor and/or, as applicable, Third Party Security Provider in relation to the Debt Documents pursuant to Clause 1.5 (*Debtors', Intra-Group Lenders', Subordinated Creditors' and Third Party Security Providers' agent*).

"**Debtor/Third Party Security Provider Accession Document**" means a document substantially in the form set out in Schedule 3 (*Form of Debtor/Third Party Security Provider Accession Document*).

"**Debtor Resignation Request**" means a notice substantially in the form set out in Schedule 5 (*Debtor Resignation Request*).

"**Debtors' Intra-Group Receivables**" means, in relation to a member of the Group, any liabilities and obligations owed to any Debtor (whether actual or contingent and whether incurred solely or jointly) by that member of the Group.

"**Default**" means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Debt Documents or any combination of any of the foregoing) be an Event of Default.

"**Disqualified Stock**" means, with respect to any person, any Capital Stock of such person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

(a) matures or is mandatory redeemable pursuant to a sinking fund obligation or otherwise;

(b) is convertible or exchangeable for Financial Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Company or a Subsidiary); or

(c) is redeemable at the option of the holder of the Capital Stock in whole or in part,

in each case on or prior to the date that is 91 days after the earlier of the date (i) of the stated maturity of any Notes or (ii) on which there are no Notes outstanding, provided, however, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; provided further, however, that any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or asset disposition (each defined in a substantially identical manner to the corresponding definitions in any Notes Conditions of Issue) shall not constitute Disqualified Stock if the terms of such Capital Stock (and all such securities into which it is convertible or for which it is ratable or exchangeable) provide that the Company may not repurchase or redeem any such Capital Stock (and all such securities into which it is convertible or for which it is ratable or exchangeable) pursuant to such provision prior to compliance by the Company with the provisions as set forth under § 5(d) (*Mandatory Redemption in Case of an Acquisition of Control*) and § 9(e) (*Limitation on Sales of Assets*) and such repurchase or redemption complies with § 9(b) (*Limitation on Restricted Payments*) of the Senior Notes 1 Conditions of Issue, § 5(d) (*Mandatory Redemption in Case of an Acquisition of Control*) and § 9(e) (*Limitation on Sales of Assets*) and such repurchase or redemption complies with § 9(b) (*Limitation on Restricted Payments*) of the Senior Notes 2 Conditions of Issue and § 5(d) (*Mandatory Redemption in Case of an Acquisition of Control*) and § 9(e) (*Limitation on Sales of Assets*) and such repurchase or redemption complies with § 9(b) (*Limitation on Restricted Payments*) of the Super Senior Notes Conditions of Issue.

"**Distress Event**" means any of:

(a) an Acceleration Event; or

(b) the enforcement of any Transaction Security.

"**Distressed Disposal**" means a disposal of a Charged Property of a member of the Group or a Third Party Security Provider which is:

(a) being effected at the request of the Instructing Group in circumstances where the Transaction Security has become enforceable;

(b) being effected by enforcement of the Transaction Security; or

(c) being effected, after the occurrence of a Distress Event, by a Debtor or a Third Party Security Provider to a person or persons which is, or are, not a member, or members, of the Group.

"**Enforcement Action**" means:

(a) in relation to any Liabilities:

(i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Primary Creditor to perform its obligations under, or of any voluntary or mandatory prepayment or redemption arising under, the Debt Documents and in compliance with this Agreement);

(ii) the making of any declaration that any Liabilities are payable on demand;

(iii) the making of a demand in relation to a Liability that is payable on demand (other than a demand made by an Intra-Group Lender in relation to any Intra-Group Liabilities which are on-demand Liabilities to the extent (A) that the demand is made in the ordinary course of dealings between the relevant Debtor and Intra-Group Lender and (B) that any resulting Payment would be a Permitted Intra-Group Payment);

(iv) the making of any demand against any member of the Group in relation to any Guarantee Liabilities of that member of the Group;

(v) the exercise of any right to require any member of the Group or a Third Party Security Provider to acquire any Liability (including exercising any put or call option against any member of the Group or a Third Party Security Provider for the redemption or purchase of any Liability other than in connection with an asset sale offer or a change of control offer (howsoever defined) as set out in the Notes Finance Documents) and excluding any such right which arises as a result of § 5(b) (*Early Redemption at the Option of the Issuer*), § 5(c) (*Mandatory Redemption in case of an Early Redemption, Mandatory Redemption or Repurchase of the Reinstated 2023 Notes*), § 5(d) (*Mandatory Redemption in Case of an Acquisition of Control*), § 5(e) (*Minimum Mandatory Redemption*), and § 5(f) (*Mandatory Redemption pursuant to the Relevant Proceeds Waterfall*) of the Senior Notes 1 Conditions of Issue, § 5(b) (*Early Redemption at the Option of the Issuer*), § 5(c) (*Mandatory Redemption in case of an Early Redemption, Mandatory Redemption or Repurchase of the Reinstated 2022 Notes*), § 5(d) (*Mandatory Redemption in Case of an Acquisition of Control*), § 5(e) (*Minimum Mandatory Redemption*), and § 5(f) (*Mandatory Redemption pursuant to the Relevant Proceeds Waterfall*) of the Senior Notes 2 Conditions of Issue, or § 5(b) (*Early Redemption at the Option of the Issuer*), § 5(c) (*Mandatory Redemption in case of an Early Redemption, Mandatory Redemption or Repurchase of the Reinstated Notes*), § 5(d)

(*Mandatory Redemption in Case of an Acquisition of Control*), § 5(e) (*Minimum Mandatory Redemption*), and § 5(f) (*Mandatory Redemption pursuant to the Relevant Proceeds Waterfall*) of the Super Senior Notes Conditions of Issue;

(vi) the exercise of any right of set-off, account combination or payment netting against any member of the Group or a Third Party Security Provider in respect of any Liabilities other than the exercise of any such right which is otherwise expressly permitted under the Notes Finance Documents to the extent that the exercise of that right gives effect to a Permitted Payment; and

(vii) the suing for, commencing or joining of any legal or arbitration proceedings against any member of the Group or a Third Party Security Provider to recover any Liabilities;

(b) the taking of any steps to enforce or require the enforcement of any Transaction Security (including the crystallisation of any floating charge forming part of the Transaction Security);

(c) the entering into of any composition, compromise, assignment or arrangement with any member of the Group or a Third Party Security Provider which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted under Clause 18 (*Changes to the Parties*) and excluding any such right which arises as a result of § 5(b) (*Early Redemption at the Option of the Issuer*), § 5(c) (*Mandatory Redemption in case of an Early Redemption, Mandatory Redemption or Repurchase of the Reinstated 2023 Notes*), § 5(d) (*Mandatory Redemption in Case of an Acquisition of Control*), § 5(e) (*Minimum Mandatory Redemption*), and § 5(f) (*Mandatory Redemption pursuant to the Relevant Proceeds Waterfall*) of the Senior Notes 1 Conditions of Issue, § 5(b) (*Early Redemption at the Option of the Issuer*), § 5(c) (*Mandatory Redemption in case of an Early Redemption, Mandatory Redemption or Repurchase of the Reinstated 2022 Notes*), § 5(d) (*Mandatory Redemption in Case of an Acquisition of Control*), § 5(e) (*Minimum Mandatory Redemption*), and § 5(f) (*Mandatory Redemption pursuant to the Relevant Proceeds Waterfall*) of the Senior Notes 2 Conditions of Issue, or § 5(b) (*Early Redemption at the Option of the Issuer*), § 5(c) (*Mandatory Redemption in case of an Early Redemption, Mandatory Redemption or Repurchase of the Reinstated Notes*), § 5(d) (*Mandatory Redemption in Case of an Acquisition of Control*), § 5(e) (*Minimum Mandatory Redemption*), and § 5(f) (*Mandatory Redemption pursuant to the Relevant Proceeds Waterfall*) of the Super Senior Notes Conditions of Issue; or

(d) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, judicial manager, administrator (including an insolvency administrator (*Insolvenzverwalter*) preliminary insolvency administrator (*vorläufiger Insolvenzverwalter*)), trustee (*Sachwalter*), preliminary trustee (*vorläufiger Sachwalter*) or similar officer) in relation to, the winding up, judicial management, dissolution, administration or reorganisation of any member of the Group or a Third Party Security Provider which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such member of the Group's or any such Third Party Security Provider's assets or any suspension of payments or moratorium of any indebtedness of any such member of the Group or any such Third Party Security Provider, or any analogous procedure or step in any jurisdiction,

except that the following shall not constitute Enforcement Action:

(i) the taking of any action falling within paragraphs (a)(ii), (a)(iii), (a)(iv), (a)(vii) or (d) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any immediately impending loss of the right to bring, support or join proceedings by reason of applicable limitation periods;

(ii) a Primary Creditor bringing legal proceedings against any person solely for the purpose of:

(A) obtaining injunctive relief (*einstweiliger Rechtsschutz*) (or any analogous remedy outside Germany) to restrain any actual or putative breach of any Debt Document to which it is party;

(B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or

(C) requesting judicial interpretation of any provision of any Debt Document to which it is party with no claim for damages.

"**Enforcement Instructions**" has the meaning given to that term in Clause 10.3 (*Manner of enforcement*).

"**Event of Default**" means:

(a) any event or circumstance specified as "Event of Default" in any Notes Finance Document; or

(b) any other event or circumstances described in any of the Notes Finance Documents under which any Primary Creditor (or any group of Primary Creditors) (as the case may be) is entitled to accelerate, terminate or otherwise declare prematurely due any Notes Liabilities.

"**Fairness Opinion**" means, in respect of a Distressed Disposal or a Liabilities Sale, an opinion that the proceeds received or recovered in connection with that Distressed Disposal or Liabilities Sale are fair from a financial point of view taking into account all relevant circumstances, including the method of enforcement or disposal.

"**Fee Letter**" means:

(a) any agreement between any of (i) the Security Agent and the Company, and (ii) any Holders Representative and the Company; and

(b) any agreement setting out fees payable to a Secured Party under or in connection with the Debt Documents and designated as such by the Company therein.

"**Final Discharge Date**" means the first date on which the Super Senior Notes Discharge Date and the Senior Notes Discharge Date have occurred.

"**Financial Adviser**" means any:

(a) reputable independent investment bank;

(b) reputable independent accountancy firm; or

(c) other reputable independent professional services firm which is regularly engaged in providing valuations of businesses or financial assets or, where applicable, advising on competitive sales processes.

"**Financial Indebtedness**" means, with respect to any person on any date of determination:

(a) the principal of indebtedness for borrowed money;

(b) the principal of obligations evidenced by bonds, debentures, notes or other similar instruments;

(c) all reimbursement obligations in respect of letters of credit, bankers' acceptances or other similar instruments (except to the extent such reimbursement obligation relates to a trade payable or other obligation not constituting Financial Indebtedness and such obligation is satisfied within 30 days of incurrence);

(d) the principal component of all obligations to pay the deferred and unpaid purchase price of property (except trade payables or similar obligations to trade creditors accrued in the ordinary course of business), where the deferred payment is arranged primarily as a means of raising finance, which purchase price is due more than six months after the date of placing such property in service or taking delivery and title thereto;

(e) any lease of property for which amounts relating thereto representing the obligation to pay future rental payments that would be recognized as a liability on the relevant person's consolidated balance sheet on the basis of IFRS; the amount of Financial Indebtedness will be, at the time any determination thereof is to be made as determined on the basis of IFRS 16 (Leases), and the stated maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty;

(f) the principal component or liquidation preference of all obligations of such person with respect to the redemption, repayment or other repurchases of any Disqualified Stock or, with respect to any Subsidiary, preferred stock (but excluding any accrued dividends);

(g) the principal component of Financial Indebtedness of other persons to the extent guaranteed by the Company or a Subsidiary;

(h) the principal component of all Financial Indebtedness of other persons secured by Security over any asset of the Company or any Subsidiary, whether or not such Indebtedness is assumed by the Company or any Subsidiary; provided, however, that the amount of such Financial Indebtedness will be the lesser of (a) the fair market value (being the value that would be paid by a willing buyer to an unaffiliated willing seller in an arm's length transaction of either party, determined in good faith by the principal financial officer and the principal executive officer of the Issuer or the Board of Directors of the Company) of such assets at such date of determination and (b) the amount of such Financial Indebtedness of such other person;

(i) to the extent not otherwise included in this definition, net obligations of such person under Hedging Obligations (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such obligation that would be payable by such person at such time); and

(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 IFRS.

"**German Bond Act**" means the *Gesetz über Schuldverschreibungen aus Gesamtemissionen (Schuldverschreibungsgesetz - SchVG)* of 31 July 2009.

"**German Security Document**" means any Security Document governed by German law.

"**Group**" means the Company and each of its Subsidiaries from time to time.

"**Guarantee Agreement**" means

(a) the Notes Guarantee Agreement; and

(b) any other document entered into at any time by any of the Debtors or Third Party Security Providers creating any guarantee, indemnity, or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations.

"**Guarantee Liabilities**" means, in relation to a member of the Group, the liabilities and obligations under the Debt Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Creditor (other than to any Agent) or Debtor as or as a result of its being a guarantor or surety (including liabilities and obligations arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Notes Finance Documents, including the Guarantee Agreements).

"**Hedging Obligations**" means, with respect to any person, the obligations of such person under:

(a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;

(b) other agreements or arrangements designed to manage interest rates or interest rate risk; and

(c) other agreements or arrangements designed to protect such person against fluctuations in currency exchange rates, or commodity prices.

"**Holders Representative**" means each of the Senior Notes 1 Holders Representative, the Senior Notes 2 Holders Representative and the Super Senior Notes Holders Representative.

"**Holders Representative Amounts**" means fees, costs and expenses of a Holders Representative payable to a Holders Representative for its own account pursuant to the relevant Debt Documents (including any amount payable to a Holders Representative by way of indemnity, remuneration or reimbursement for expenses incurred), and the costs incurred by a Holders Representative in connection with any actual or attempted Enforcement Action which is permitted by this Agreement which are recoverable pursuant to the terms of the Debt Documents.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**IFRS**" means the International Financial Reporting Standards as issued by the International Standards Board and as adopted by the European Union as in effect from time to time.

"**Insolvency Code**" means the German Insolvency Code (*Insolvenzordnung*).

"**Insolvency Event**" means, in relation to any member of the Group or a Third Party Security Provider:

(a) any resolution is passed or order made for the winding up, judicial management, dissolution, administration, reorganisation or commencement of business rescue proceedings of that member of the Group or that Third Party Security Provider, and in particular, if that member of the Group is incorporated, established or having its centre of main interests in Germany, that member of the Group files a petition for the opening of insolvency proceedings (*Antrag auf Eröffnung des Insolvenzverfahrens*) or that the competent court takes any of the actions set out in Insolvency Code or opens insolvency proceedings (*Eröffnung des Insolvenzverfahrens*) against that member of the Group or that Third Party Security Provider;

(b) a moratorium is declared in relation to any indebtedness of that member of the Group or that Third Party Security Provider;

(c) any composition, compromise, assignment or arrangement is made with any of its creditors;

(d) the appointment of any liquidator, receiver, administrative receiver, administrator (including an insolvency administrator (*Insolvenzverwalter*) preliminary insolvency administrator (*vorläufiger Insolvenzverwalter*)), trustee (*Sachwalter*), preliminary trustee (*vorläufiger Sachwalter*), compulsory manager, business rescue practitioner or other similar officer in respect of that member of the Group or that Third Party Security Provider or any of its assets; or

(e) any analogous procedure or step is taken in any jurisdiction.

"**Instructing Group**" means:

(a) subject to paragraph (b) below, the Majority Senior Notes Creditors; or

(b) in relation to instructions as to any Enforcement Action, the group of Primary Creditors entitled to give Enforcement Instructions pursuant to Clauses 10.1 (*Instructions to enforce*) or 10.2 (*Enforcement Instructions*).

"**Intercreditor Amendment**" means any amendment or waiver which is subject to Clause 24 (*Consents, Amendments and Override*).

"**Intra-Group Lender**" means at any time any Original Intra-Group Lender and each other member of the Group which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another member of the Group (for the avoidance of doubt, in each case solely in the capacity as creditor under such arrangement) and which becomes (and has not ceased to be) a Party as an "Intra-Group Lender" in accordance with Clause 18 (*Changes to the Parties*).

"**Intra-Group Liabilities**" means the Liabilities owed by any Debtor to any of the Intra-Group Lenders (for the avoidance of doubt, in each case solely in the capacity as creditor under such arrangement), but not including, for the avoidance of doubt, any Subordinated Liabilities.

"**Liabilities**" means all present and future liabilities and obligations at any time of any member of the Group, Debtor or any Third Party Security Provider to any Creditor under the Debt Documents, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

(a) any refinancing, novation, deferral or extension;

(b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;

(c) any claim for damages or restitution; and

(d) any claim as a result of any recovery by any Debtor or Third Party Security Provider of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

"**Liabilities Acquisition**" means, in relation to a person and to any Liabilities, a transaction where that person:

(a) purchases by way of assignment or assignment and transfer by assumption of contract (*Vertragsübernahme*);

(b) enters into any sub-participation in respect of; or

(c) enters into any other agreement or arrangement having an economic effect substantially similar to an assignment, an assignment and transfer by assumption of contract (*Vertragsübernahme*) or a sub-participation in respect of,

the rights in respect of those Liabilities.

"**Liabilities Sale**" means a Debt Disposal pursuant to paragraph (e) of Clause 12.1 (*Facilitation of Distressed Disposals and Appropriation*).

"**Majority Senior Notes Creditors**" means those Senior Notes Holders who in the aggregate hold more than 50% of the principal amount of the Senior Notes outstanding at that time (provided that Senior Notes which do not carry voting rights pursuant to sec. 6 para. 1 sent. 2 of the German Bond Act shall be disregarded for the purpose of calculating the aggregate amount of the Senior Notes outstanding at that time).

"**Majority Senior Notes 1 Creditors**" means those Senior Notes 1 Holders who in the aggregate hold more than 50% of the principal amount of the Senior Notes 1 outstanding at that time (provided that Senior Notes 1 which do not carry voting rights pursuant to sec. 6 para. 1 sent. 2 of the German Bond Act shall be disregarded for the purpose of calculating the aggregate amount of the Senior Notes 1 outstanding at that time).

"**Majority Senior Notes 2 Creditors**" means those Senior Notes 2 Holders who in the aggregate hold more than 50% of the principal amount of the Senior Notes 2 outstanding at that time (provided that Senior Notes 2 which do not carry voting rights pursuant to sec. 6 para. 1 sent. 2 of the German Bond Act shall be disregarded for the purpose of calculating the aggregate amount of the Senior Notes 2 outstanding at that time).

"**Majority Super Senior Notes Creditors**" means those Super Senior Notes Holders who in aggregate hold more than 50% of the principal amount of the Super Senior Notes outstanding at that time (provided that Super Senior Notes which do not carry voting rights pursuant to sec. 6 para. 1 sent. 2 of the German Bond Act shall be disregarded for the purpose of calculating the aggregate amount of the Super Senior Notes outstanding at that time).

"**Mandatory Prepayment**" means, with respect to any Liability, a repayment of principal or redemption (and, in each case, if applicable, accrued interest) to be made prior to its stated maturity in accordance with the terms of any Debt Document upon the occurrence of certain defined events or circumstances (other than any Event of Default).

"**Non-Cash Consideration**" means consideration in a form other than cash.

"**Non-Cash Recoveries**" means:

(a) any proceeds of a Distressed Disposal or a Debt Disposal; or

(b) any amount distributed to the Security Agent pursuant to Clause 8.1 (*Turnover by the Creditors*),

which are, or is, in the form of Non-Cash Consideration.

"**Non-Distressed Disposal**" has the meaning given to that term in Clause 11 (*Non-Distressed Disposals*).

"**Noteholders**" means the Senior Notes 1 Holders, the Senior Notes 2 Holders and the Super Senior Notes Holders.

"**Notes**" means the Senior Notes 1, the Senior Notes 2 and the Super Senior Notes.

"**Notes Conditions of Issue**" means the Senior Notes 1 Conditions of Issue, the Senior Notes 2 Conditions of Issue and the Super Senior Notes Conditions of Issue.

"**Notes Finance Documents**" means each of the Senior Notes 1 Finance Documents, Senior Notes 2 Finance Documents and Super Senior Notes Finance Documents.

"**Notes Guarantee Agreement**" means a German law governed guarantee agreement dated on or about the date hereof and entered into between each of HFS Helvetic Financial Services AG, CORESTATE CAPITAL AG, Corestate Capital Group GmbH, HL Investment Beteiligungs GmbH, HANNOVER LEASING Belgien Beteiligungs GmbH & Co. KG, Delta Vermietungsgesellschaft mbH, Corestate Capital Advisors GmbH, Tempelhof Twins HoldCo S.à r.l., HANNOVER LEASING Private Invest Beteiligungs GmbH, HANNOVER LEASING Beteiligungs GmbH & Co. KG, ORION Verwaltungsgesellschaft mbH & Co. Beteiligungs KG, CRM Students Ltd, Bego PropCo I S.L., Corestate Capital Services GmbH, Kera Verwaltungsgesellschaft mbH, Thorfin Invest S.L. (in future Gabriela PropCo S.L.), Plutos HoldCo S.à r.l., Echo HoldCo S.à r.l., Corestate Capital France HoldCo SAS, Gabriela HoldCo S.à r.l., Bego HoldCo S.à r.l. and Ginova AIF S.à r.l. as original guarantors and the Security Agent pursuant to which each guarantor thereunder guarantees the obligations under the Notes Liabilities.

"**Notes Guarantor**" means any guarantor under any Notes Finance Document.

"**Notes Liabilities**" means the Senior Notes 1 Liabilities, the Senior Notes 2 Liabilities and the Super Senior Notes Liabilities.

"**Holders Representative**" means each of the Senior Notes 1 Holders Representative, Senior Notes 2 Holders Representative and the Super Senior Notes Holders Representative.

"**Other Liabilities**" means, in relation to a member of the Group or a Third Party Security Provider, any trading and other liabilities and obligations (not being Borrowing Liabilities or Guarantee Liabilities) it may have to an Intra-Group Lender, Subordinated Creditor, Debtor or Third Party Security Provider.

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

"**Payment**" means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations).

"**Permitted Intra-Group Payments**" means the Payments permitted by Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*).

"**Permitted Payment**" means a Permitted Primary Payment and a Permitted Intra-Group Payment or a Permitted Subordinated Payment.

"**Permitted Primary Payments**" means the Permitted Super Senior Notes Payments and the Permitted Senior Notes Payments.

"**Permitted Subordinated Payments**" means the Payments permitted by Clause 6.2 (*Permitted Payments: Subordinated Liabilities*).

"**Permitted Super Senior Notes Payments**" means the Payments permitted by Clause 3.1 (*Payment of Super Senior Notes Liabilities*).

"**Permitted Senior Notes Payments**" means the Payments permitted by Clause 4.1 (*Payment of Senior Notes Liabilities*).

"**Primary Creditors**" means the Holders Representatives and the Noteholders.

"**Process Agent Appointment Letter**" means a letter substantially in the form set out in Schedule 6 (*Form of process agent appointment Letter*).

"**Property**" of a member of the Group, Third Party Security Provider or of a Debtor means:

(a) any asset of that member of the Group, Third Party Security Provider or of that Debtor;

(b) any Subsidiary of that member of the Group, Third Party Security Provider or of that Debtor; and

(c) any asset of any such Subsidiary.

"**Recoveries**" has the meaning given to that term in Clause 15.1 (*Order of application*).

"**Relevant Liabilities**" means:

(a) in the case of a Creditor:

  (i) the Liabilities owed to Creditors ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Creditor (as the case may be); and

  (ii) all present and future liabilities and obligations, actual and contingent, of the Debtors and Third Party Security Providers to the Security Agent; and

(b) in the case of a Debtor or Third Party Security Provider, the Liabilities owed to the Creditors together with all present and future liabilities and obligations, actual and contingent, of the Debtors or, as the case may be, Third Party Security Providers to the Security Agent.

"**Secured Obligations**" means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Group and by each Debtor and Third Party Security Provider to any Secured Party under the Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

"**Secured Parties**" means the Security Agent and each of the Primary Creditors from time to time but, in the case of each Primary Creditor (other than any Noteholder), only if it is (and has not ceased to be) a Party or has acceded to this Agreement, in the appropriate capacity, pursuant to Clause 18.5 (*Creditor/Holders Representative Accession Undertaking*).

"**Security**" means a mortgage, land charge, charge, pledge, lien, assignment or transfer for security purposes, retention of title arrangement or other *in rem* security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Security Documents**" means:

(a) each of the Transaction Security Documents;

(b) any other document entered into at any time by any of the Debtors or Third Party Security Providers creating any Security in favour of any of the Secured Parties as security for any of the Secured Obligations; and

(c) any Security granted under any covenant for further assurance in any of the documents referred to in paragraphs (a) and (b) above or in any Guarantee Agreement.

"**Security Property**" means:

(a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Secured Parties or to the Security Agent under a parallel debt structure for the benefit of the Secured Parties and all proceeds of that Transaction Security;

(b) all obligations expressed to be undertaken by a Debtor or Third Party Security Provider to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by a Debtor or Third Party Security Provider in favour of the Security Agent as trustee for the Secured Parties;

(c) the Security Agent's interest in any trust fund created pursuant to Clause 8 (Turnover of Receipts);

(d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Debt Documents to hold as trustee on trust for the Secured Parties.

"**Senior Notes**" means the Senior Notes 1 and the Senior Notes 2.

"**Senior Notes Discharge Date**" means the first date on which the Senior Notes 1 Discharge Date and the Senior Notes 2 Discharge Date have occurred.

"**Senior Notes Creditors**" means the Senior Notes 1 Creditors and the Senior Notes 2 Creditors.

"**Senior Notes Holders**" means the Senior Notes 1 Holders and the Senior Notes 2 Holders.

"**Senior Notes 1**" means the EUR 40,693,288.31 8% PIK toggle notes due 2026, ISIN DE000A19SPK4, issued by the Company.

"**Senior Notes 1 Conditions of Issue**" means the conditions of issue (*Anleihebedingungen*) governing the terms of the Senior Notes 1.

"**Senior Notes 1 Creditor**" means each of the Senior Notes 1 Holders Representative and the Senior Notes 1 Holders.

"**Senior Notes 1 Discharge Date**" means the first date on which all Senior Notes 1 Liabilities have been fully and finally discharged to the satisfaction of the Senior Notes 1 Holders Representative, whether or not as a result of an enforcement, and the Senior Notes 1 Creditors are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

"**Senior Notes 1 Finance Documents**" means the Senior Notes 1, the Senior Notes 1 Notes Conditions of Issue, this Agreement, any Guarantee Agreements, any Security Documents, the agency agreements relating to the Senior Notes 1, the book-entry registration agreements relating to the Senior Notes 1, and any other document entered into under or in connection with the Senior Notes 1.

"**Senior Notes 1 Holder**" means each holder of the Senior Notes 1.

"**Senior Notes 1 Holders Representative**" means the Initial Senior Notes 1 Holders Representative and any successor in the capacity as joint representative (*gemeinsamer Vertreter*) of the Senior Notes 1 Holders.

"**Senior Notes 1 Liabilities**" means the Liabilities owed by the Debtors to the Senior Notes 1 Creditors under or in connection with the Senior Notes 1 Finance Documents.

"**Senior Notes 2**" means the EUR 64,816,710.00 8% PIK toggle notes due 2026, ISIN DE000A19YDA9, issued by the Company.

"**Senior Notes 2 Conditions of Issue**" means the conditions of issue (*Anleihebedingungen*) governing the terms of the Senior Notes 2.

"**Senior Notes 2 Creditor**" means each of the Senior Notes 2 Holders Representative and the Senior Notes 2 Holders.

"**Senior Notes 2 Discharge Date**" means the first date on which all Senior Notes 2 Liabilities have been fully and finally discharged to the satisfaction of the Senior Notes 2 Holders Representative, whether or not as a result of an enforcement, and the Senior Notes 2 Creditors are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

"**Senior Notes 2 Finance Documents**" means the Senior Notes 2, the Senior Notes 2 Notes Conditions of Issue, this Agreement, any Guarantee Agreements, any Security Documents, the agency agreements relating to the Senior Notes 2, the book-entry registration agreements relating to the Senior Notes 2, and any other document entered into under or in connection with the Senior Notes 2.

"**Senior Notes 2 Holder**" means each holder of the Senior Notes 2.

"**Senior Notes 2 Holders Representative**" means the Initial Senior Notes 2 Holders Representative and any successor in the capacity as joint representative (*gemeinsamer Vertreter*) of the Senior Notes 2 Holders.

"**Senior Notes 2 Liabilities**" means the Liabilities owed by the Debtors to the Senior Notes 2 Creditors under or in connection with the Senior Notes 2 Finance Documents.

"**Super Senior Notes**" means the EUR 37,000,000 10% PIK toggle notes due 2026, ISIN DE000A3LJQY6, issued by the Company.

"**Super Senior Notes Conditions of Issue**" means the conditions of issue (*Anleihebedingungen*) governing the terms of the Super Senior Notes.

"**Super Senior Notes Creditor**" means each of the Super Senior Notes Holders Representative and the Super Senior Notes Holders.

"**Super Senior Notes Discharge Date**" means the first date on which all Super Senior Notes Liabilities have been fully and finally discharged to the satisfaction of the Super Senior Notes Holders Representative, whether or not as a result of an enforcement, and the Super Senior Notes Creditors are under no further obligation to provide financial accommodation to any of the Debtors under the Debt Documents.

"**Super Senior Notes Finance Documents**" means the Super Senior Notes, the Super Senior Notes Conditions of Issue, this Agreement, any Guarantee Agreements, any Security Documents, the agency agreements relating to the Super Senior Notes, the book-entry registration agreements relating to the Super Senior Notes, and any other document entered into under or in connection with the Super Senior Notes.

"**Super Senior Notes Holder**" means each holder of the Super Senior Notes.

"**Super Senior Notes Holders Representative**" means the Initial Super Senior Notes Holders Representative and any successor in the capacity as joint representative (*gemeinsamer Vertreter*) of the Super Senior Notes Holders.

"**Super Senior Notes Liabilities**" means the Liabilities owed by the Debtors to the Super Senior Notes Creditors under or in connection with the Super Senior Notes Finance Documents.

"**Stock Corporation Act**" means the German Stock Corporation Act (*Aktiengesetz*).

"**Subordinated Creditor**" means any person which becomes (and has not ceased to be) a Party as a "Subordinated Creditor" in accordance with the terms of Clause 18 (*Changes to the Parties*).

"**Subordinated Liabilities**" means the Liabilities owed to any Subordinated Creditor by any member of the Group.

"**Subsidiary**" means a subsidiary within the meaning of section 17 of the German Stock Corporation Act (*Aktiengesetz (AktG)*) or in relation to any person, any entity which is controlled directly or indirectly by that person, and "control" for this purpose means the direct or indirect ownership of the majority of the voting share capital of such entity or the right or ability to determine the composition of a majority of the board of directors (or like board) of such entity, in each case whether by virtue of ownership of share capital, contract or otherwise, **provided that**:

(a) an entity which has granted Security over its shares or other ownership interest in another entity, by which the recipient of the Security (or its nominee) holds the legal title to that interest, shall nevertheless be treated as a member of that other entity; and

(b) rights attached to shares or other ownership interests which are subject to Security shall be treated as held by the grantor of such Security.

"**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).

"**Third Party Security Provider**" means any person which becomes (and has not ceased to be) a Party as a "Third Party Security Provider" in accordance with the terms of Clause 18 (*Changes to the Parties*).

"**Transaction Security**" means the Security created or evidenced or expressed to be created or evidenced under or pursuant to the Security Documents.

"**Transaction Security Documents**" means the documents listed in Schedule 2 (*Transaction Security Documents*).

"**VAT**" means:

(a) 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

(b) any other tax of a similar nature (including goods and services taxes), whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

"**Voluntary Prepayment**" means, with respect to any Notes Liability, a repayment of principal, redemption or repurchase of such Notes Liability by, or for the account of, a member of the Group, (and, in each case, if applicable, accrued interest) to be made prior to its stated maturity in accordance with the terms of any Debt Document upon the voluntary election of the relevant Debtor (other than any Event of Default or Mandatory Prepayment).

1.2 Construction

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

(i) any "**Agent**", "**Company**", "**Creditor**", "**Debtor**", "**Intra-Group Lender**", "**Noteholder**", "**Notes Guarantor**", "**Holders Representative**", "**Party**", "**Primary Creditor**", "**Secured Party**", "**Security Agent**" "**Subordinated Creditor**" or "**Third Party Security Provider**" shall be construed to be a reference to it in its capacity as such and not in any other capacity;

(ii) any "**Agent**", "**Company**", "**Creditor**", "**Debtor**", "**Intra-Group Lender**", "**Noteholder**", "**Notes Guarantor**", "**Holders Representative**", "**Party**", "**Primary Creditor**", "**Secured Party**", "**Security Agent**" or "**Subordinated Creditor**", or "**Third Party Security Provider**" 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 Debt Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with this Agreement;

(iii) an "**amount**" includes an amount of cash and an amount of Non-Cash Consideration;

(iv) "**assets**" includes present and future properties, revenues and rights of every description;

(v) a "**Debt Document**" or any other agreement or instrument is (other than a reference to a "**Debt Document**" or any other agreement or instrument in "**original form**") a reference to that Debt Document, or other agreement or instrument, as amended, novated, supplemented, extended or restated as permitted by this Agreement;

(vi) a "**distribution**" of or out of the assets of a member of the Group, includes a distribution of cash and a distribution of Non-Cash Consideration;

(vii) "**enforcing**" (or any derivation) the Transaction Security includes:

(A) the appointment of an administrator (or any analogous officer in any jurisdiction) of a Debtor or a Third Party Security Provider by the Security Agent; and

(B) the making of a demand under Clause 16.2 (*Parallel debt*) by the Security Agent;

(viii) a "**group of Creditors**" includes all the Creditors and a "**group of Primary Creditors**" includes all the Primary Creditors;

(ix) "**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;

(x) "**including**" means including without limitation, and "**include**" and "**included**" shall be construed accordingly;

(xi) the "**original form**" of a "**Debt Document**" or any other agreement or instrument is a reference to that Debt Document, agreement or instrument as in effect on the Effective Date or originally entered into after the Effective Date;

(xii) 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);

(xiii) "**proceeds**" of a Distressed Disposal or of a Debt Disposal includes proceeds in cash and in Non-Cash Consideration;

(xiv) 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; and

(xv) a statute or provision of law is a reference to that statute or provision, respectively, as amended or re- enacted.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) 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 waived.

(d) "**Germany**" means the Federal Republic of Germany.

(e) Without prejudice to the generality of any provision of this Agreement, in this Agreement, where it relates to a company incorporated or established in Luxembourg, a reference to:

(i) a "**winding-up**", "**reorganisation**", "**insolvency**", "**administration**" or "**dissolution**" includes, without limitation, bankruptcy (*faillite*), insolvency, voluntary or judicial liquidation (*liquidation volontaire ou judiciaire*), composition with creditors (*concordat préventif de la faillite*), moratorium or suspension of payments (*sursis de paiement*), controlled management (gestion contrôlée), fraudulent conveyance (*actio pauliana*), general settlement with creditors, reorganisation or any other similar proceedings affecting the rights of creditors generally;

(ii) a "**receiver**", "**administrative receiver**", "**administrator**", "**trustee**", "**custodian**" or similar officer includes, without limitation, a *juge délégué*, *commissaire*, *juge-commissaire*, *mandataire ad hoc*, *administrateur provisoire*, *liquidateur or curateur*;

(iii) a "**lien**" or "**security interest**" includes any *hypothèque*, *nantissement*, *gage*, *privilège*, *sûreté réelle*, *droit de rétention*, and any type of security in rem (*sûreté réelle*) or agreement or arrangement having a similar effect and any transfer of title by way of security;

(iv) a "**guarantee**" includes any guarantee which is independent from the debt to which it relates and excludes any suretyship (*cautionnement*) within the meaning of articles 2011 and seq. of the Luxembourg civil code (*Code civil*), as amended;

(v) "**constitutional documents**" includes its deed of incorporation (*constitution d'une société*) and/or its up-to-date (restated) articles of association (*statuts coordonnés*); and

(vi) a "**director**" includes a manager (*gérant*).

1.3 **Specific interpretation provisions applying to the Security Agent**

(a) Where the Security Agent is referred to as acting "reasonably" or "in a reasonable manner" or as coming to an opinion or determination that is "reasonable" (or any similar or analogous wording is used), this shall mean that the Security Agent shall be acting or coming to an opinion or determination on the instructions of the Instructing Group or any other relevant majority (as the case may be) acting reasonably or in a reasonable manner and the Security Agent shall be under no obligation to determine the reasonableness of such instructions or whether in giving such instructions the Instructing Group or any other relevant majority (as the case may be) are acting reasonably or in a reasonable manner.

(b) Where acceptability to or satisfaction of the Security Agent is referred to in relation to a matter not affecting the personal interests of the Security Agent this shall mean the acceptability to or satisfaction of the Instructing Group or any other relevant majority (as the case may be) as notified by them to the Security Agent.

(c) In respect of paragraphs (a) and (b) above, the Security Agent shall not be responsible for any liability occasioned or by any delay or failure on the part of the Instructing Group or any other relevant majority (as the case may be) to give any such instructions or direction or to form any such opinion.

1.4 **English language**

This Agreement is made in the English language. For the avoidance of doubt, the English language version of this Agreement shall prevail over any translation of this Agreement. However, where a German translation of a word or phrase appears in the text of this Agreement, the German translation of such word or phrase shall prevail.

1.5 **Authority of Holders Representatives**

(a) All measures, actions and declarations by or for the Senior Notes 1 Holders, Senior Notes 2 Holders and/or, as applicable, Super Senior Notes Holders under this Agreement are taken, executed, performed and given by the Senior Notes 1 Holders Representative, Senior Notes 2 Holders Representative and/or, as applicable, Super Senior Notes Holders Representative, respectively.

(b) All measures, actions and declarations by or for the Senior Notes Holders (or a group of the Senior Notes Holders (such as the Majority Senior Notes Creditors) under this Agreement are taken, executed, performed and given by the Senior Notes 1 Holders Representative and the Senior Notes 2 Holders Representative together or, if solely Senior Notes 1 Holders or Senior Notes 2 Holders represent the relevant quorum of Senior Notes Holders, by the Senior Notes 1 Holders Representative or the Senior Notes 2 Holders Representative, respectively.

(c) All measures, actions and declarations by or for the Super Senior Notes Holders (or a group of the Super Senior Notes Holders (such as the Majority Super Senior Notes Creditors) under this Agreement are taken, executed, performed and given by the Super Senior Notes Holders Representative.

1.6 **Debtors', Intra-Group Lenders', Subordinated Creditors' and Third Party Security Providers' agent**

(a) Each Debtor, each Intra-Group Lender (in each case, other than the Company), each Subordinated Creditor and each Third Party Security Provider, by its execution of, or accession to, this Agreement, irrevocably appoints the Company to act on its behalf as its agent in relation to the Debt Documents and irrevocably authorises

(i) the Company on its behalf to give all notices and instructions, to make and deliver agreements, to enter into and deliver deeds and to effect any instructions, amendments, confirmations, supplements and variations (in each case, however fundamental) capable of being given, made or effected by that Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider (notwithstanding that they may increase that Debtor's, Intra-Group Lender's, Subordinated Creditor's or, as applicable, Third Party Security Provider's obligations or otherwise affect that Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider), to give confirmation as to continuation of obligations and to supply all information concerning itself contemplated by any Debt Document, without further reference to or the consent of that Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider; and

(ii) each Secured Party to give any notice, demand or other communication to that Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider under the Debt Documents to the Company, and in each case that Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider shall be bound as though it had itself given the notices and instructions, executed or made and delivered 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, deed undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication entered into, made, given and/or, as applicable, delivered under or in connection with any Debt Document by the Debtors', Intra-Group Lenders', Subordinated Creditors' and Third Party Security Providers' Agent on behalf of any Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider (whether or not known to any other Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider and whether occurring before or after such other Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider became a Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider under any Debt Document) shall be binding for all purposes on that Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider as if that Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider had expressly made or entered into the same. In the event of any conflict between any notices or other communications of the Debtors', Intra-Group Lenders', Subordinated Creditors' and Third Party Security Providers' Agent and of any Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third Party Security Provider, the notice or, as applicable, other communication of the Debtors', Intra-Group Lenders', Subordinated Creditors' and Third Party Security Providers' Agent shall prevail.

(c) For the purposes of this Clause 1.5, each Debtor, each Intra-Group Lender (in each case, other than the Company), each Subordinated Creditor and each Third Party Security Provider hereby releases the Company from the restrictions of Section 181 of the Civil Code and all comparable restrictions on self-dealing and multiple representations under the laws of any other jurisdiction, in each case to the greatest extent legally permissible. To the extent a Debtor, Intra-Group Lender, Subordinated Creditor or Third Party Security Provider, is legally prevented from granting such release in whole or in part, it shall promptly notify the Security Agent.

SECTION 2
RANKING AND PRIMARY CREDITORS

2. RANKING AND PRIORITY

2.1 Primary Creditor Liabilities

Each of the Parties agrees that the Super Senior Notes Liabilities and the Senior Notes Liabilities shall rank (subject to the terms of this Agreement) *pari passu* in right and priority of payment and without any preference between them.

2.2 Transaction Security

(a) Each of the Parties acknowledges that the Transaction Security shall exclusively be granted to the Security Agent.

(b) Each of the Parties agrees that the Transaction Security shall, subject to the terms of this Agreement, rank and secure the following Liabilities (but only to the extent that such Transaction Security is expressed to secure those Liabilities) in the following order:

(i) first, the Super Senior Notes Liabilities; and

(ii) second, the Senior Notes Liabilities,

notwithstanding that *in rem* the Transaction Security secures the Super Senior Notes Liabilities and Senior Notes Liabilities *pari passu* and without any preference between them (but only to the extent that such Transaction Security is expressed to secure those Liabilities).

2.3 Intra-Group Liabilities and Subordinated Liabilities

(a) Each of the Parties agrees that the Intra-Group Liabilities and Subordinated Liabilities are postponed and subordinated to the Liabilities owed by the Debtors to the Primary Creditors and shall not be secured by the Transaction Security.

(b) This Agreement does not purport to rank any of the Intra-Group Liabilities or the Subordinated Liabilities as between themselves.

2.4 Holders Representative Amounts

Subject to Clause 15 (*Application of Proceeds*) where applicable, nothing in this Agreement will prevent payment by the Company or any Debtor of the Holders Representative Amounts or the receipt and retention of such Holders Representative Amounts by the relevant Holders Representative(s).

3. SUPER SENIOR NOTES CREDITORS AND SUPER SENIOR NOTES LIABILITIES

3.1 Payment of Super Senior Notes Liabilities

The Debtors may make Payments of the Super Senior Notes Liabilities at any time in accordance with the Super Senior Notes Finance Documents.

3.2 **Amendments and waivers: Super Senior Notes Creditors**

Prior to the Senior Notes Discharge Date, the Super Senior Notes Creditors may not amend or waive the terms of the Super Senior Notes Finance Documents, unless:

(a) the amendment or waiver is of a minor and administrative nature or is otherwise not prejudicial to the Senior Notes Creditors and would not result in any Super Senior Notes Finance Document not complying with the provisions of this Agreement;

(b) the amendment or waiver relates to a provision in a Super Senior Notes Finance Document which, in substance, is similar to a provision in the Senior Notes 1 Finance Documents and the Senior Notes 2 Finance Documents and the amendment or waiver is, in substance, similar to a corresponding waiver or amendment of the relevant corresponding provision in the Senior Notes 1 Finance Documents and Senior Notes 2 Finance Documents, respectively; or

(c) the prior written consent of the Majority Senior Notes Creditors is obtained.

3.3 **Security: Super Senior Notes Creditors**

The Super Senior Notes Creditors may take, accept or receive the benefit of:

(a) any Security in respect of the Super Senior Notes Liabilities from any member of the Group in addition to the Transaction Security which is, at the same time, also offered either:

(i) to the Security Agent as trustee for the other Secured Parties in respect of their Liabilities; or

(ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the Secured Parties, to the Security Agent under a parallel debt structure for the benefit of the other Secured Parties,

and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2.2 (*Transaction Security*); and

(b) any guarantee, indemnity or other assurance against loss in respect of the Super Senior Notes Liabilities from any member of the Group in addition to those in:

(i) the original form of the Notes Guarantee Agreement; or

(ii) this Agreement,

if, at the same time, it is also offered to the Security Agent for the benefit of the other Secured Parties in respect of their Liabilities and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*).

4. SENIOR NOTES CREDITORS AND SENIOR NOTES LIABILITIES

4.1 **Payment of Senior Notes Liabilities**

(a) Subject to paragraph (b) below, the Debtors may make Payments of the Senior Notes Liabilities at any time in accordance with the Senior Notes Finance Documents.

(b) No Mandatory Prepayment or Voluntary Prepayment of Senior Notes Liabilities (other than any accrued interest which, pursuant to the Senior Notes 1 Conditions of Issue or, as applicable, the Senior Notes 2 Conditions of Issue is to be paid in cash) shall be made prior to the Super Senior Notes Discharge Date.

4.2 **Amendments and waivers: Senior Notes Creditors**

(a) Prior to the Super Senior Notes Discharge Date, the Senior Notes Creditors may not amend or waive the terms of the Senior Notes Finance Documents, unless:

(i) the amendment or waiver is of a minor and administrative nature or is otherwise not prejudicial to the Super Senior Creditors and would not result in any Senior Notes Finance Document not complying with the provisions of this Agreement;

(ii) the amendment or waiver relates to a provision in a Senior Notes Finance Document which, in substance, is similar to a provision in the Super Senior Notes Finance Documents and the amendment or waiver is, in substance, similar to a corresponding waiver or amendment of the relevant corresponding provision in the Senior Notes Finance Documents; or

(iii) the prior written consent of the Majority Super Senior Notes Creditors is obtained.

(b) Prior to the Senior Notes 2 Discharge Date, the Senior Notes 1 Creditors may not amend or waive the terms of the Senior Notes 1 Finance Documents, unless:

(i) the amendment or waiver is of a minor and administrative nature or is otherwise not prejudicial to the Senior Notes 2 Creditors and would not result in any Senior Notes 1 Finance Document not complying with the provisions of this Agreement;

(ii) the amendment or waiver relates to a provision in a Senior Notes 1 Finance Document which, in substance, is similar to a provision in the Senior Notes 2 Finance Documents, and the amendment or waiver is, in substance, similar to a corresponding waiver or amendment of the relevant corresponding provision in the Senior Notes 2 Finance Documents; or

(iii) the prior written consent of the Majority Senior Notes 2 Creditors is obtained.

(c) Prior to the Senior Notes 1 Discharge Date, the Senior Notes 2 Creditors may not amend or waive the terms of the Senior Notes 2 Finance Documents, unless:

(i) the amendment or waiver is of a minor and administrative nature, is not prejudicial to the Senior Notes 1 Creditors and would not result in any Senior Notes 2 Finance Document not complying with the provisions of this Agreement;

(ii) the amendment or waiver relates to a provision in a Senior Notes 2 Finance Document which, in substance, is similar to a provision in the Senior Notes 1 Finance Documents, and the amendment or waiver is, in substance, similar to a corresponding waiver or amendment of the relevant corresponding provision in the Senior Notes 1 Finance Documents; or

(iii) the prior written consent of the Majority Senior Notes 1 Creditors is obtained.

4.3 **Security: Senior Notes Creditors**

(a) Prior to the Super Senior Notes Discharge Date and the Senior Notes 2 Discharge Date, the Senior Notes 1 Creditors may take, accept or receive the benefit of:

(i) any Security in respect of the respective Senior Notes Liabilities from any member of the Group in addition to the Transaction Security which is, at the same time, also offered either:

(A) to the Security Agent as trustee for the other Secured Parties in respect of their Liabilities; or

(B) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the Secured Parties, to the Security Agent under a parallel debt structure for the benefit of the other Secured Parties,

and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2.2 (*Transaction Security*); and

(ii) any guarantee, indemnity or other assurance against loss in respect of the Senior Notes 1 Liabilities from any member of the Group in addition to those in:

(A) the original form of the Notes Guarantee Agreement; or

(B) this Agreement,

if, at the same time, it is also offered to the Security Agent for the benefit of the other Secured Parties in respect of their Liabilities and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*).

(b) Prior to the Super Senior Notes Discharge Date and the Senior Notes 1 Discharge Date, the Senior Notes 2 Creditors may take, accept or receive the benefit of:

(i) any Security in respect of the respective Senior Notes Liabilities from any member of the Group in addition to the Transaction Security which is, at the same time, also offered either:

(A) to the Security Agent as trustee for the other Secured Parties in respect of their Liabilities; or

(B) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Agent as trustee for the Secured Parties, to the Security Agent under a parallel debt structure for the benefit of the other Secured Parties,

and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2.2 (*Transaction Security*); and

(ii) any guarantee, indemnity or other assurance against loss in respect of the Senior Notes 1 Liabilities from any member of the Group in addition to those in:

(A) the original form of the Notes Guarantee Agreement; or

(B) this Agreement,

if, at the same time, it is also offered to the Security Agent for the benefit of the other Secured Parties in respect of their Liabilities and (subject to the terms of this Agreement) ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*).

SECTION 3
OTHER CREDITORS

5. INTRA-GROUP LENDERS AND INTRA-GROUP LIABILITIES

5.1 Restriction on Payment: Intra-Group Liabilities

Prior to the Final Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payments of the Intra-Group Liabilities at any time unless:

(a) that Payment is permitted under Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*); or

(b) the taking or receipt of that Payment is permitted under Clause 5.7 (*Permitted Enforcement: Intra-Group Lenders*).

5.2 Permitted Payments: Intra-Group Liabilities

(a) Subject to paragraphs (b) and (c) below, the Debtors may make Payments in respect of the Intra-Group Liabilities (whether of principal, interest or otherwise) from time to time when due if:

(i) the payment is not prohibited under the Notes Finance Documents; or

(ii) the Instructing Group consents to that Payment being made.

(b) Subject to paragraph (c) below, Payments in respect of the Intra-Group Liabilities pursuant to paragraph (a) above may not be made if, at the time of the Payment, an Acceleration Event has occurred unless:

(i) the Instructing Group consents to that Payment being made; or

(ii) that Payment is made to facilitate Payment of any Permitted Primary Payment.

(c) Nothing in this Clause 5.2 will restrict:

(i) the roll-up or capitalisation of interest on Intra-Group Liabilities or the payment of interest on Intra-Group Liabilities by the issue of payment-in-kind instruments (in each case to the extent constituting Intra-Group Liabilities) provided that, in any such case, there is no payment in cash or cash equivalents;

(ii) the ability of the Company or any of its Subsidiaries to make Payments in respect of the Intra-Group Liabilities by way of set-off against (A) the subscription price payable by the Intra-Group Lenders for such shares issued pursuant to a share capital increase permitted or not prohibited by the Notes Finance Documents or (B) issue of new instruments constituting Intra-Group Liabilities, provided that there is no payment in cash or cash equivalents; or

(iii) any Payment, omission to demand such Payment by an Intra-Group Lender would cause any personal criminal or personal civil liability (including without limitation pursuant to Sections 30 in conjunction with 31 and 43 of the German Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*) of the managing directors of the relevant Intra-Group Lender in form of a German limited liability company (*Gesellschaft mit beschränkter Haftung*) (or in respect of a German limited partnership (*Kommanditgesellschaft*) with a limited liability company (*Gesellschaft mit beschränkter Haftung*) as its general partner (*Komplementär*), the managing directors of its general partner (*Komplementär*)), provided that the relevant Intra-Group Lender provides as soon as possible prior written notice to the Security Agent of its intention to demand such Payment together with an explanation of the purported personal criminal or personal civil liability of the relevant managing director should the relevant managing director omit to demand such Payment.

5.3 **Payment obligations continue**

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 5.1 (*Restriction on Payment: Intra-Group Liabilities*) and 5.2 (*Permitted Payments: Intra-Group Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

5.4 **Acquisition of Intra-Group Liabilities**

(a) Subject to paragraph (b) below, each Debtor may, and may permit any other member of the Group to:

(i) enter into any Liabilities Acquisition; or

(ii) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any Intra-Group Liabilities at any time.

(b) Subject to paragraph (c) below, no action described in paragraph (a) above may take place in respect of any Intra-Group Liabilities if:

(i) that action would result in a breach of any of the Notes Finance Documents; or

(ii) at the time of that action, an Acceleration Event has occurred.

(c) The restrictions in paragraph (b) above shall not apply if:

(i) the Instructing Group consents to that action; or

(ii) that action is taken to facilitate Payment of any Permitted Primary Payment.

5.5 **Security: Intra-Group Lenders**

Prior to the Final Discharge Date, the Intra-Group Lenders may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Intra-Group Liabilities unless:

(a) that Security, guarantee, indemnity or other assurance against loss is expressly permitted by the Notes Finance Documents; or

(b) the prior written consent of the Instructing Group is obtained.

5.6 **Restriction on enforcement: Intra-Group Lenders**

Subject to Clause 5.7 (*Permitted Enforcement: Intra-Group Lenders*), none of the Intra-Group Lenders shall be entitled to take any Enforcement Action in respect of any of the Intra-Group Liabilities at any time prior to the Final Discharge Date.

5.7 **Permitted Enforcement: Intra-Group Lenders**

(a) After the occurrence of an Insolvency Event in relation to any member of the Group, each Intra-Group Lender may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Intra-Group Lender in accordance with Clause 7.4 (*Filing of claims*)), exercise any right it may otherwise have against that member of the Group to:

(i) accelerate any of that member of the Group's Intra-Group Liabilities or declare them prematurely due and payable or payable on demand;

(ii) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Intra-Group Liabilities;

(iii) exercise any right of set-off or take or receive any Payment in respect of any Intra-Group Liabilities of that member of the Group; or

(iv) claim and prove in the liquidation of that member of the Group for the Intra-Group Liabilities owing to it.

(b) Nothing in Clause 5.6 (*Restriction on enforcement: Intra-Group Lenders*) shall prevent any Intra-Group Lender incorporated in Germany from exercising any of the rights referred to in Clause 5.6 (*Restriction on enforcement: Intra-Group Lenders*) if, without exercising any of the rights referred to therein, unless omission to exercise such rights would cause any personal criminal or personal civil liability (including without limitation according to Sections 30 in conjunction with 31 and 43 of the German Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*) of the managing directors of the relevant Intra-Group Lender in form of a German limited liability company (*Gesellschaft mit beschränkter Haftung*) (or in respect of a German limited partnership (*Kommanditgesellschaft*) with a limited liability company (*Gesellschaft mit beschränkter Haftung*) as its general partner (*Komplementär*), the managing directors of its general partner (*Komplementär*)), provided that the relevant Intra-Group Lender provides as soon as possible prior written notice to the Security Agent of its intention to exercise such rights together with an explanation of the purported personal criminal or personal civil liability of the relevant managing director should the relevant managing director omit to exercise such rights.

5.8 **Treatment of HANNOVER LEASING Private mInvest Beteiligungs GmbH**

(a) In respect of HANNOVER LEASING Private Invest Beteilgungs GmbH as Intra-Group Lender only, nothing in Clause 5 (*Intra-Group Lenders and IntraGroup Liabilities*) or any other provision of this Agreement shall prevent HANNOVER LEASING Privat Invest Beteiligungs GmbH as Intra-Group Lender, or any Debtor in respect of the Intra-Group Liabilities owed ot HANNOVER LEASING Privat Invest Beteiligungs GmbH as Intra-Group Lender, from exercising any of the rights referred to in this Agreement (including, for the avoidance of doubt, the right to make Payments) if and to the extent the omission to exercise such rights would affect (*beeinträchtigen*) (actually or potentially, directly or indirectly, legally of in fact (*tatsächlich*) the economic and/or legal interests of such private investors who are indirectly, i. e. as trustors of Hannover Leasing Treuhand- Vermögensverwaltung GmbH, invested in HANNOVER LEASING Private Invest Beteiligungs GmbH.

(b) Paragraph (a) above shall override anything in the Debt Documents (including this Agreement) to the contrary.

(c) This Clause 5.8 shall ease to apply if private investors are no longer invested in HANNOVER LEASING Private Invest Beteiligungs GmbH.

6. SUBORDINATED LIABILITIES

6.1 Restriction on Payment: Subordinated Liabilities

Prior to the Final Discharge Date, the Debtors shall not, and shall procure that no other member of the Group will, make any Payment of the Subordinated Liabilities at any time unless:

(a) that Payment is permitted under Clause 6.2 (*Permitted Payments: Subordinated Liabilities*); or

(b) the taking or receipt of that Payment is permitted under Clause 6.8 (*Permitted Enforcement: Subordinated Creditors*).

6.2 Permitted Payments: Subordinated Liabilities

The Debtors may make Payments in respect of the Subordinated Liabilities then due if:

(a) the Payment is not prohibited by the Debt Documents and no Acceleration Event has occurred; or

(b) the Majority Senior Notes Creditors and the Majority Super Senior Notes Creditors consent to that Payment being made.

6.3 Payment obligations continue

No Debtor shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Debt Document by the operation of Clauses 6.1 (*Restriction on Payment: Subordinated Liabilities*) and 6.2 (*Permitted Payments: Subordinated Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

6.4 No acquisition of Subordinated Liabilities

Prior to the Final Discharge Date, the Debtors or any Third Party Security Provider shall not, and shall procure that no other member of the Group will:

(a) enter into any Liabilities Acquisition; or

(b) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any of the Subordinated Liabilities unless the consent of the Majority Senior Notes Creditors and the Majority Super Senior Notes Creditors has been obtained.

6.5 Amendments and Waivers: Subordinated Creditors

Prior to the Final Discharge Date, the Subordinated Creditors may not amend, waive or agree the terms of any of the documents or instruments pursuant to which the Subordinated Liabilities are constituted unless:

(a) the consent of the Majority Senior Notes Creditors and the Majority Super Senior Notes Creditors has been obtained; or

(b) that amendment, waiver or agreement is permitted by the Debt Documents of a minor and administrative nature and is not prejudicial to the Primary Creditors.

6.6 Security: Subordinated Creditors

The Subordinated Creditors may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss from any member of the Group in respect of any of the Subordinated Liabilities prior to the Final Discharge Date, except with the prior written consent of the Instructing Group.

6.7 Restriction on Enforcement: Subordinated Creditors

Subject to Clause 6.8 (*Permitted Enforcement: Subordinated Creditors*), no Subordinated Creditor shall be entitled to take any Enforcement Action in respect of any of the Subordinated Liabilities at any time prior to the Final Discharge Date, except with the prior written consent of the Instructing Group.

6.8 Permitted Enforcement: Subordinated Creditors

To the extent permitted under applicable laws, after the occurrence of an Insolvency Event in relation to any member of the Group, the Subordinated Creditors may (unless otherwise directed by the Security Agent or unless the Security Agent has taken, or has given notice that it intends to take, action on behalf of that Subordinated Creditor in accordance with Clause 7.4 (*Filing of claims*)) exercise any right it may otherwise have in respect of that member of the Group to:

(a) accelerate any of that member of the Group's Subordinated Liabilities or declare them prematurely due and payable or payable on demand;

(b) make a demand under any guarantee, indemnity or other assurance against loss given by that member of the Group in respect of any Subordinated Liabilities;

(c) exercise any right of set-off or take or receive any Payment in respect of any Subordinated Liabilities of that member of the Group; or

(d) claim and prove in any insolvency process of that member of the Group for the Subordinated Liabilities owing to it.

6.9 Representations: Intra-Group Lenders and Subordinated Creditors

Each Intra-Group Lender and Subordinated Creditor represents and warrants to the Primary Creditors and the Security Agent on the date of this Agreement (or, if it becomes a Party after such date, the date of the relevant Creditor Accession Undertaking) that:

(a) it is a corporation, duly incorporated or formed and validly existing under the laws of its jurisdiction of incorporation or formation;

(b) the obligations expressed to be assumed by it in this Agreement are, subject to any general principles of law limiting its obligations which are applicable to creditors generally, legal, valid, binding and enforceable obligations; and

(c) the entry into and performance by it of this Agreement does not and will not:

   (i) conflict with any law or regulation applicable to it, its constitutional documents or any agreement or instrument binding upon it or any of its assets; or

   (ii) constitute a default or termination event (however described) under any agreement or instrument binding on it or any of its assets.

SECTION 4
INSOLVENCY, TURNOVER AND ENFORCEMENT

7. EFFECT OF INSOLVENCY EVENT

7.1 Distributions

(a) After the occurrence of an Insolvency Event in relation to a Third Party Security Provider or any member of the Group, any Party entitled to receive a distribution out of the assets of that member of the Group or Third Party Security Provider in respect of Liabilities owed to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that member of the Group or Third Party Security Provider to make that distribution to the Security Agent (or to such other person as the Security Agent shall direct) until the Liabilities owing by any member of the Group or Third Party Security Providers to the Secured Parties have been paid in full.

(b) The Security Agent shall apply distributions made to it under paragraph (a) above in accordance with Clause 15 (*Application of Proceeds*).

7.2 Set-Off

To the extent that any Third Party Security Provider's or a member of the Group's Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that member of the Group or Third Party Security Provider, any Creditor which benefited from that set-off shall promptly pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 15 (*Application of Proceeds*) unless such payment to the Security Agent would cause the managing directors of any member of the Group incorporated in Germany (or in case of a German GmbH & Co. KG, the managing directors of its general partner) to incur personal criminal or civil liability (including without limitation according to Sections 30, 43 of the German Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*)).

7.3 Non-cash distributions

If the Security Agent or any other Secured Party receives a distribution in the form of Non-Cash Consideration in respect of any of the Liabilities (other than any distribution of Non-Cash Recoveries), the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

7.4 Filing of claims

After the occurrence of an Insolvency Event in relation to any member of the Group or a Third Party Security Provider, each Creditor hereby irrevocably authorises and instructs the Security Agent, on its behalf, to:

(a) take any Enforcement Action (in accordance with the terms of this Agreement) against that member of the Group or Third Party Security Provider;

(b) demand, sue, prove and give receipt for any or all of that member of the Group's or Third Party Security Provider's Liabilities;

(c) collect and receive all distributions on, or on account of, any or all of that member of the Group's or Third Party Security Provider's Liabilities; and

(d) file claims, take proceedings and do all other things the Security Agent considers reasonably necessary to recover that member of the Group's or Third Party Security Provider's Liabilities.

The Security Agent shall only make use of the authorisations under this Clause 7.4 after the occurrence of an Insolvency Event in relation to any member of the Group or Third Party Security Provider.

7.5 **Further assurance – Insolvency Event**

Each Creditor will:

(a) do all things that the Security Agent reasonably requests in order to give effect to this Clause 7 and

(b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 7 or if the Security Agent requests that a Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent or grant any power of attorney (*Vollmacht*) or authority (*Ermächtigung*) to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such action.

7.6 **Security Agent instructions**

For the purposes of Clause 7.1 (*Distributions*), Clause 7.4 (*Filing of claims*) and Clause 7.5 (*Further assurance – Insolvency Event*) the Security Agent shall act:

(a) on the instructions of the Instructing Group; or

(b) in the absence of any such instructions, as the Security Agent sees fit.

8. TURNOVER OF RECEIPTS

8.1 **Turnover by the Creditors**

Subject to Clause 8.2 (*Permitted assurance and receipts*), if at any time prior to the Final Discharge Date, any Creditor receives or recovers:

(a) any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is not either:

(i) a Permitted Payment; or

(ii) made in accordance with Clause 15 (*Application of Proceeds*);

(b) other than where Clause 7.2 (*Set-Off*) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;

(c) notwithstanding paragraphs (a) and (b) above, and other than where Clause 7.2 (*Set-Off*) applies, any amount:

(i) on account of, or in relation to, any of the Liabilities:

(A) after the occurrence of a Distress Event; or

(B) as a result of any litigation or proceedings against a member of the Group or any Third Party Security Provider (other than after the occurrence of an Insolvency Event in respect of that member of the Group or that Third Party Security Provider); or

(ii) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Distress Event,

other than, in each case, any amount received or recovered in accordance with Clause 15 (*Application of Proceeds*);

(d) the proceeds of any enforcement of any Transaction Security except in accordance with Clause 15 (*Application of Proceeds*); or

(e) other than where Clause 7.2 (*Set-Off*) applies, any distribution or Payment of, or on account of or in relation to, any of the Liabilities owed by any member of the Group or any Third Party Security Provider which is not in accordance with Clause 15 (*Application of Proceeds*) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that member of the Group or Third Party Security Provider,

that Creditor will:

(i) in relation to receipts and recoveries not received or recovered by way of set-off:

(A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay or distribute that amount to the Security Agent for application in accordance with the terms of this Agreement; and

(B) promptly pay or distribute an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and

(ii) in relation to receipts and recoveries received or recovered by way of set- off, promptly pay an amount equal to that recovery to the Security Agent for application in accordance with the terms of this Agreement.

8.2 **Permitted assurance and receipts**

Nothing in this Agreement shall restrict the ability of any Primary Creditor to:

(a) arrange with any person which is not a member of the Group or a Third Party Security Provider any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit based derivative or sub-participation); or

(b) make any assignment or transfer permitted by Clause 18 (*Changes to the Parties*),

which is permitted by the Notes Finance Documents and that Primary Creditor shall not be obliged to account to any other Party for any sum received by it as a result of that action.

8.3 **Amounts received by Debtors and Third Party Security Providers**

If any of the Debtors or Third Party Security Providers receives or recovers any amount which, under the terms of any of the Debt Documents, should have been paid to the Security Agent, that Debtor or Third Party Security Provider will:

(a) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement; and

(b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement.

8.4 **Saving provision**

If, for any reason, any of the trusts expressed to be created in this Clause 8 should fail or be unenforceable, the affected Creditor or Debtor or Third Party Security Provider will promptly pay or distribute an amount equal to that receipt or recovery to the Security Agent to be held on trust by the Security Agent for application in accordance with the terms of this Agreement.

8.5 **Turnover of Non-Cash Consideration**

For the purposes of this Clause 8, if any Creditor receives or recovers any amount or distribution in the form of Non-Cash Consideration which is subject to Clause 8.1 (*Turnover by the Creditors*) the cash value of that Non-Cash Consideration shall be determined in accordance with Clause 13.2 (*Cash value of Non-Cash Recoveries*).

9. REDISTRIBUTION

9.1 **Recovering Creditor's rights**

(a) Any amount paid or distributed by a Creditor (a "**Recovering Creditor**") to the Security Agent under Clause 7 (*Effect of Insolvency Event*) or Clause 8 (*Turnover of Receipts*) shall be treated as having been paid or distributed by the relevant Debtor or, as the case may be, Third Party Security Provider, and distributed to the Security Agent and Primary Creditors (each a "**Sharing Creditor**") in accordance with the terms of this Agreement.

(b) On a distribution by the Security Agent under paragraph (a) above, the Recovering Creditor shall be entitled to receive by way of assignment of rights of the Sharing Creditors a portion of its claims against the relevant Debtor or, as the case may be, Third Party Security Provider, to the extent they have shared in the redistribution.

(c) If and to the extent that the Recovering Creditor is not able to rely on its right under paragraph (b) above, the relevant Debtor or, as the case may be, Third Party Security Provider shall be liable to the Recovering Creditor for a debt equal to the amount received or recovered by the Recovering Creditor and paid or distributed to the Security Agent (the "**Shared Amount**") which is immediately due and payable.

9.2 **Reversal of redistribution**

(a) If any part of the Shared Amount received or recovered by a Recovering Creditor becomes repayable or returnable to a Debtor or, as the case may be, Third Party Security

Provider and is repaid or returned by that Recovering Creditor to that Debtor or, as the case may be, Third Party Security Provider then:

(i) each Sharing Creditor shall, upon request of the Security Agent, pay or distribute to the Security Agent for the account of that Recovering Creditor an amount equal to the appropriate part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Creditor for its proportion of any interest on the Shared Amount which that Recovering Creditor is required to pay); and

(ii) that Recovering Creditor's rights of assignment in respect of any reimbursement shall be cancelled and the relevant Debtor or Third Party Security Provider will be liable to the reimbursing Primary Creditor for the amount so reimbursed and the Recovering Creditor shall re-assign any claims assigned to it pursuant to paragraph (b) of Clause 9.1 (*Recovering Creditor's rights*).

(b) The Security Agent shall not be obliged to pay or distribute any Redistributed Amount to a Recovering Creditor under paragraph 9.2(a)(i) above until it has been able to establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Creditor.

9.3 Deferral of subrogation

(a) No Creditor, Debtor or Third Party Security Provider will exercise any rights which it may have by reason of the performance by it of its obligations under the Debt Documents to take the benefit (in whole or in part and whether by way of legal subrogation (*gesetzlicher Forderungsübergang*) or otherwise) of any rights under the Debt Documents of any Creditor which ranks ahead of it in accordance with the priorities set out in Clause 2 (*Ranking and Priority*) until such time as all of the Liabilities owing to each prior ranking Creditor (or, in the case of any Debtor, owing to each Creditor) have been irrevocably discharged in full.

(b) No Subordinated Creditor will exercise any rights which it may have to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Debt Documents of any Creditor until such time as all of the Liabilities owing to each Creditor (other than a Subordinated Creditor) have been irrevocably discharged in full.

10. ENFORCEMENT OF TRANSACTION SECURITY

10.1 Instructions to enforce

(a) Subject to paragraph (e) below, if either the Majority Senior Notes Creditors or the Majority Super Senior Notes Creditors wish to issue Enforcement Instructions after the Transaction Security and/or, as applicable, any Guarantee Liability has become enforceable, the Senior Notes 1 Holders Representative and/or the Senior Notes 2 Holders Representative, as applicable, or the Super Senior Notes Holders Representative, respectively, shall deliver a copy of those proposed Enforcement Instructions (an "**Initial Enforcement Notice**") to the Security Agent and the Security Agent shall promptly forward such Initial Enforcement Notice to that or those Holders Representative(s) which did not deliver such Initial Enforcement Notice.

(b) Subject to paragraphs (c), (d), (e), (f) and (g), below, prior to the Senior Notes Discharge Date, the Security Agent will act in accordance with Enforcement Instructions received from the Majority Senior Notes Creditors.

(c) If the Majority Senior Notes Creditors have not either

(i) made a determination as to the method of enforcement they wish to instruct the Security Agent to pursue (and notified the Security Agent of that determination in writing); or

(ii) appointed a Financial Adviser to assist them in making such determination,

within 120 days of the date of the delivery of the Initial Enforcement Notice to the Security Agent, then the Security Agent will act in accordance with Enforcement Instructions received from the Majority Super Senior Notes Creditors until the occurrence of the Super Senior Notes Discharge Date.

(d) Following the occurrence of the Senior Notes Discharge Date but prior to the occurrence of the Super Senior Notes Discharge Date, any Enforcement Instructions may be given by the Majority Super Senior Notes Creditors. Following the occurrence of the Super Senior Notes Discharge Date but prior to the occurrence of the Senior Notes Discharge Date, any Enforcement Instructions may be given by the Majority Senior Notes Creditors.

(e) Subject to paragraph (f) below, before giving any Enforcement Instructions to the Security Agent or taking any other Enforcement Action, the relevant group of Primary Creditors (through their respective Holders Representative(s)) shall consult with the other Primary Creditors (through their Holders Representatives) in good faith about such instructions for a period of not less than fourteen days or such shorter period as all Holders Representatives agree (the "**Consultation Period**") and only following the expiry of a Consultation Period shall the relevant group of Primary Creditors be entitled to give such Enforcement Instructions to the Security Agent to enforce the Transaction Security and/or, as applicable, Guarantee Liability or take any other Enforcement Action in accordance with this Agreement.

(f) No Holders Representative shall be obliged to consult in accordance with paragraph (e) above and the relevant group of Primary Creditors or Instructing Group (as applicable) shall be entitled to give any Enforcement Instructions to the Security Agent or take any other Enforcement Action prior to the end of a Consultation Period if:

(i) the Transaction Security and/or, as applicable, Guarantee Liability, subject to the relevant Enforcement Instructions or Enforcement Action, has become enforceable as a result of an Insolvency Event; or

(ii) the relevant Instructing Group or Holders Representative(s) of any of the members of the relevant Instructing Group (acting on their instructions) determines in good faith (and notifies each other Holders Representative and the Security Agent) that to enter into such consultation and delay the commencement of enforcement of the Transaction Security and/or, as applicable, any Guarantee Liability could reasonably be expected to have an adverse effect on

(A) the Security Agent's ability to take the relevant Enforcement Action;

(B) the realisation proceeds as a result of the relevant Enforcement Action; or

(C) the quantum or timing of recovery of the relevant Notes Liabilities.

(iii) Each Holders Representative shall promptly forward to its relevant Primary Creditors all notices and other communications forwarded to it or by it during the Consultation Period.

(g) If an Initial Enforcement Notice is delivered by any Holders Representative, the other Holders Representatives which have not delivered such Initial Enforcement Notice shall, without undue delay, call for a meeting of the relevant Noteholders (or voting without a meeting) to provide Enforcement Instructions.

10.2 **Enforcement Instructions**

(a) Subject to paragraph (b) below, the Security Agent may refrain from enforcing the Transaction Security and/or, as applicable, Guarantee Liability or taking any Enforcement Action unless instructed otherwise by:

(i) the Instructing Group in accordance with Clause 10.1 (*Instructions to enforce*); or

(ii) if required under paragraph (b) below, the Majority Super Senior Notes Creditors.

(b) Prior to the Senior Notes Discharge Date:

(i) if the Majority Senior Notes Creditors have instructed the Security Agent to cease or not to proceed with any Enforcement Action and a period of 120 days from the date of the relevant Transaction Security and/or, as applicable, Guarantee Liability becoming enforceable has elapsed; or

(ii) in the absence of instructions as to Enforcement Action from the Majority Senior Notes Creditors following a period of 120 days from the date of the relevant Transaction Security and/or, as applicable, Guarantee Liability becoming enforceable,

the Security Agent shall give effect to any instructions to take Enforcement Action in accordance with instructions provided by the Majority Super Senior Notes Creditors.

(c) The Security Agent is entitled to rely on and comply with instructions given in accordance with this Clause 10.2.

10.3 **Manner of enforcement**

(a) If the Transaction Security and/or, as applicable, Guarantee Liability is being enforced pursuant to Clause 10.2 (*Enforcement Instructions*), the Security Agent shall enforce the Transaction Security and/or, as applicable, Guarantee Liability in such manner (including the selection of any administrator (or any analogous officer in any jurisdiction) of any Debtor or Third Party Security Provider to be appointed by the Security Agent) as the Instructing Group shall instruct (the "**Enforcement Instructions**"), or, in the absence of any such instructions, as the Security Agent considers in its reasonable discretion to be appropriate.

(b) When giving any instructions to the Security Agent in connection with the enforcement of the Transaction Security and/or, as applicable, Guarantee Liability, the relevant group of Creditors shall duly take into account the interests of the relevant Secured Parties who have not given those instructions in their capacity as secured creditors.

10.4 Exercise of voting rights

(a) Each Creditor (other than each Agent) will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any member of the Group or, as the case may be, Third Party Security Provider, as instructed by the Security Agent.

(b) The Security Agent shall give instructions for the purposes of paragraph (a) above in accordance with any instructions given to it by the Instructing Group or, in the absence of any such instructions, as the Security Agent considers in its reasonable discretion to be appropriate.

10.5 Waiver of rights

To the extent permitted under applicable law and subject to Clause 10.2 (*Enforcement Instructions*), Clause 10.3 (*Manner of enforcement*), Clause 12.3 (*Proceeds of Distressed Disposals and Debt Disposals*), Clause 12.4 (*Fair value*) and Clause 15 (*Application of Proceeds*), each of the Secured Parties, Third Party Security Providers and the Debtors waives all rights it may otherwise have to require that the Transaction Security and/or, as applicable, Guarantee Liability be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security and/or, as applicable, Guarantee Liability or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

10.6 Duties owed

Each of the Secured Parties and the Debtors acknowledges that, notwithstanding Clause 16.14 (*Exclusion of liability*), in the event that the Security Agent enforces or is instructed to enforce the Transaction Security and/or, as applicable, Guarantee Liability, the duties of the Security Agent owed to the Secured Parties in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security and/or, as applicable, Guarantee Liability shall, subject to Clause 12.4 (*Fair value*), be no different to or greater than the duty that is owed by the Security Agent to the Debtors under general law.

10.7 Enforcement through Security Agent

The Secured Parties (other than the Security Agent) shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or Guarantee Liabilities (or to exercise any right, power, authority or discretion arising under the Security Documents or Guarantee Agreements) except through the Security Agent. To the extent that any Transaction Security and/or, as applicable, Guarantee Liability is not held by the Security Agent but only held by the Secured Parties (or any of them) then such Secured Party/ies shall only enforce such Transaction Security and/or, as applicable, Guarantee Liability as instructed by the Security Agent (acting on the instructions of the Instructing Group) and shall promptly forward any amounts from time to time received or recovered in connection with the enforcement of such Transaction Security and/or, as applicable, Guarantee Liability to the Security Agent for application in accordance with Clause 15 (*Application of Proceeds*).

SECTION 5
NON-DISTRESSED DISPOSALS, DISTRESSED DISPOSALS AND CLAIMS

11. NON-DISTRESSED DISPOSALS

11.1 Definitions

In this Clause 11:

(a) "**Disposal Proceeds**" means the proceeds of a Non-Distressed Disposal; and

(b) "**Non-Distressed Disposal**" means a disposal of:

(i) an asset of a member of the Group; or

(ii) an asset which is subject to the Transaction Security,

to a person or persons outside the Group where:

(A) each of the Holders Representatives has notified the Security Agent that the disposal is permitted under and has been carried out in accordance with, the respective Notes Finance Documents; and

(B) that disposal is not a Distressed Disposal.

11.2 Facilitation of Non-Distressed Disposals

(a) If a disposal of an asset is a Non-Distressed Disposal, the Security Agent is irrevocably authorised and instructed (at the cost of the Company and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party or Debtor) but subject to paragraph (b) below:

(i) to release the Transaction Security or any other claim (relating to a Debt Document) over that asset;

(ii) where that asset consists of all the shares in the capital of a member of the Group, to release the Transaction Security or any other claim (relating to a Debt Document) over that member of the Group's Property or any claim (including any guarantee or indemnity) against such member of the Group; and

(iii) to execute and deliver or enter into any release of the Transaction Security or any claim described in paragraphs (i) and (ii) above and, if applicable, issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable.

(b) To the extent that any Transaction Security is also or only held by the Secured Parties (or any of them) then the Security Agent shall be entitled, authorised and instructed to effect the releases described in paragraph (a) above on behalf of each of such Secured Party.

(c) Each release of Transaction Security or any claim described in paragraphs (a) and (b) above shall become effective only on the making of the relevant Non-Distressed Disposal.

11.3 **Disposal Proceeds**

If any Disposal Proceeds are required to be applied in Mandatory Prepayment of any of the Notes Liabilities then those Disposal Proceeds shall, subject to paragraph (b) of Clause 4.1 (*Payment of Senior Notes Liabilities*) above, be applied in accordance with the Notes Conditions of Issue.

12. DISTRESSED DISPOSALS AND APPROPRIATION

12.1 Facilitation of Distressed Disposals and Appropriation

If a Distressed Disposal or an Appropriation is being effected the Security Agent is irrevocably authorised and instructed (at the cost of the Company and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party, Third Party Security Provider or Debtor):

(a) ***release of Transaction Security/non-crystallisation certificates****:* to release the Transaction Security or any other claim over the asset subject to the Distressed Disposal or Appropriation and execute and deliver or enter into any release of that Transaction Security or claim and, if applicable, issue any letters of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Agent, be considered necessary or desirable;

(b) ***release of liabilities and Transaction Security on a share sale/Appropriation (Debtor)***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of a Debtor, to release:

(i) that Debtor and any Subsidiary of that Debtor from all or any part of:

(A) its Borrowing Liabilities;

(B) its Guarantee Liabilities; and

(C) its Other Liabilities;

(ii) any Transaction Security granted by that Debtor or any Subsidiary of that Debtor over any of their assets; and

(iii) any other claim of an Intra-Group Lender, a Subordinated Creditor or another Debtor over that Debtor's assets or over the assets of any Subsidiary of that Debtor,

on behalf of the relevant Creditors, Third Party Security Providers and Debtors;

(c) ***release of liabilities and Transaction Security on a share sale/Appropriation (Holding Company)***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of any Holding Company of a Debtor, to release:

(i) that Holding Company and any Subsidiary of that Holding Company from all or any part of:

(A) its Borrowing Liabilities;

(B) its Guarantee Liabilities; and

(C) its Other Liabilities;

(ii) any Transaction Security granted by that Holding Company or any Subsidiary of that Holding Company over any of their assets; and

(iii) any other claim of an Intra-Group Lender, a Subordinated Creditor or another Debtor over the assets of that Holding Company or any Subsidiary of that Holding Company,

on behalf of the relevant Creditors, Third Party Security Providers and Debtors;

(d) ***facilitative disposal of liabilities on a share sale/Appropriation***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of a Debtor or the Holding Company of a Debtor and the Security Agent decides to dispose of all or any part of:

(i) the Liabilities (other than Liabilities due to any Agent); or

(ii) the Debtors' Intra-Group Receivables,

owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company on the basis that any transferee of those Liabilities or Debtors' Intra-Group Receivables (the "**Transferee**") will not be treated as a Primary Creditor or a Secured Party for the purposes of this Agreement, to execute and deliver or enter into any agreement to dispose of all or part of those Liabilities or Debtors' Intra-Group Receivables on behalf of the relevant Creditors and Debtors provided that notwithstanding any other provision of any Debt Document the Transferee shall not be treated as a Primary Creditor or a Secured Party for the purposes of this Agreement;

(e) ***sale of liabilities on a share sale/Appropriation***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of a Debtor or the Holding Company of a Debtor and the Security Agent decides to dispose of all or any part of:

(i) the Liabilities (other than Liabilities due to any Agent); or

(ii) the Debtors' Intra-Group Receivables,

owed by that Debtor or Holding Company or any Subsidiary of that Debtor or Holding Company on the basis that any transferee of those Liabilities or Debtors' Intra-Group Receivables will be treated as a Primary Creditor or a Secured Party for the purposes of this Agreement, to execute and deliver or enter into any agreement to dispose of:

(A) all (and not part only) of the Liabilities owed to the Primary Creditors (other than to any Agent); and

(B) all or part of any other Liabilities (other than Liabilities owed to any Agent) and the Debtors' Intra-Group Receivables,

on behalf of, in each case, the relevant Creditors, Third Party Security Providers and Debtors;

(f) ***transfer of obligations in respect of liabilities on a share sale/Appropriation***: if the asset subject to the Distressed Disposal or Appropriation consists of shares in the capital of a Debtor or the Holding Company of a Debtor (the "**Disposed Entity**") and the Security Agent decides to transfer to another Debtor (the "**Receiving Entity**") all or any part of the Disposed Entity's obligations or any obligations of any Subsidiary of that Disposed Entity in respect of:

(i) the Intra-Group Liabilities; or

(ii) the Debtors' Intra-Group Receivables,

to execute and deliver or enter into any agreement to:

(iii) agree to the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtors' Intra-Group Receivables on behalf of the relevant Intra-Group Lenders and Debtors to which those obligations are owed and on behalf of the Debtors which owe those obligations; and

(iv) to accept the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtors' Intra-Group Receivables on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Intra-Group Liabilities or Debtors' Intra-Group Receivables are to be transferred.

To the extent that any Transaction Security is also or only held by the Secured Parties (or any of them) then the Security Agent is hereby entitled, authorised and instructed by each Secured Party to effect the releases described in this Clause 12.1 on behalf of each of such Secured Party.

12.2 **Form of consideration for Distressed Disposals and Debt Disposals**

Subject to Clause 13.4 (*Security Agent protection*), a Distressed Disposal or a Debt Disposal may be made in whole or in part for consideration in the form of cash or, if not for cash, for Non-Cash Consideration which is acceptable to the Security Agent.

12.3 **Proceeds of Distressed Disposals and Debt Disposals**

The net proceeds of each Distressed Disposal and each Debt Disposal shall be paid, or distributed, to the Security Agent for application in accordance with Clause 15 (*Application of Proceeds*) and, to the extent that:

(a) any Liabilities Sale has occurred; or

(b) any Appropriation has occurred,

as if that Liabilities Sale, or any reduction in the Secured Obligations resulting from that Appropriation, had not occurred.

12.4 **Fair value**

(a) In the case of:

(i) a Distressed Disposal; or

(ii) a Liabilities Sale,

effected by, or at the request of, the Security Agent, the Security Agent shall take reasonable care to obtain a fair market price having regard to the prevailing market conditions and the Security Agent may postpone (or request the postponement of) any Distressed Disposal or Liabilities Sale if it may reasonably be expected that a higher price can be achieved at a later point in time.

(b) The requirement in paragraph (a) above shall be satisfied (and as between the Creditors and the Debtors shall be conclusively presumed to be satisfied) and the Security Agent will be taken to have discharged all its obligations in this respect under this Agreement, the other Debt Documents and generally at law if:

(i) that Distressed Disposal or Liabilities Sale is made pursuant to any process or proceedings approved or supervised by or on behalf of any court of law;

(ii) that Distressed Disposal or Liabilities Sale is made by, at the direction of or under the control of, a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer (or any analogous officer in any jurisdiction) appointed in respect of a member of the Group or the assets of a member of the Group;

(iii) that Distressed Disposal or Liabilities Sale is made pursuant to a Competitive Sales Process; or

(iv) a Financial Adviser appointed by the Security Agent pursuant to Clause 12.5 (*Appointment of Financial Adviser*) has delivered a Fairness Opinion to the Security Agent in respect of that Distressed Disposal or Liabilities Sale.

12.5 Appointment of Financial Adviser

(a) Without prejudice to Clause 16.11 (*Rights and discretions*), the Security Agent may engage, or approve the engagement of, (in each case on such terms as it may consider appropriate (including restrictions on that Financial Adviser's liability and the extent to which any advice, valuation or opinion may be relied on or disclosed)), pay for and rely on the services of a Financial Adviser to provide advice, a valuation or an opinion in connection with:

(i) a Distressed Disposal or a Debt Disposal;

(ii) the application or distribution of any proceeds of a Distressed Disposal or a Debt Disposal; or

(iii) any amount of Non-Cash Consideration which is subject to Clause 8.1 (*Turnover by the Creditors*).

(b) For the purposes of paragraph (a) above, the Security Agent shall act:

(i) on the instructions of the Instructing Group if the Financial Adviser is providing a valuation for the purposes of Clause 13.2 (*Cash value of Non-Cash Recoveries*); or

(ii) otherwise in accordance with Clause 12.6 (*Security Agent's actions*).

12.6 Security Agent's actions

For the purposes of Clause 12.1 (*Facilitation of Distressed Disposals and Appropriation*), Clause 12.2 (*Form of consideration for Distressed Disposals and Debt Disposals*) and Clause 12.4 (*Fair value*) the Security Agent shall act:

(a) on the instructions of the Instructing Group; or

(b) in the absence of any such instructions, as the Security Agent sees fit.

13. NON-CASH RECOVERIES

13.1 Security Agent and Non-Cash Recoveries

To the extent the Security Agent receives or recovers any Non-Cash Recoveries, it may (acting on the instructions of the Instructing Group) but without prejudice to its ability to exercise discretion under Clause 15.2 (*Prospective liabilities*)):

(a) distribute those Non-Cash Recoveries pursuant to Clause 15 (*Application of Proceeds*) as if they were Cash Proceeds;

(b) hold, manage, exploit, collect, realise and dispose of those Non-Cash Recoveries; and

(c) hold, manage, exploit, collect, realise and distribute any resulting Cash Proceeds.

13.2 Cash value of Non-Cash Recoveries

(a) The cash value of any Non-Cash Recoveries shall be determined by reference to a valuation obtained by the Security Agent from a Financial Adviser appointed by the Security Agent pursuant to Clause 12.5 (*Appointment of Financial Adviser*) taking into account any notional conversion made pursuant to Clause 15.4 (*Currency conversion*).

(b) If any Non-Cash Recoveries are distributed pursuant to Clause 15 (*Application of Proceeds*), the extent to which such distribution is treated as discharging the Liabilities shall be determined by reference to the cash value of those Non-Cash Recoveries determined pursuant to paragraph (a) above.

13.3 Alternative to Non-Cash Consideration

(a) If any Non-Cash Recoveries are to be distributed pursuant to Clause 15 (*Application of Proceeds*), the Security Agent shall (prior to that distribution and taking into account the Liabilities then outstanding and the cash value of those Non-Cash Recoveries) notify the Primary Creditors entitled to receive those Non-Cash Recoveries pursuant to that distribution (the "**Entitled Creditors**").

(b) If:

(i) it would be unlawful for an Entitled Creditor to receive such Non-Cash Recoveries (or it would otherwise conflict with that Entitled Creditor's constitutional documents for it to do so); and

(ii) that Entitled Creditor promptly so notifies the Security Agent and supplies such supporting evidence as the Security Agent may reasonably require,

that Primary Creditor shall be a "**Cash Only Creditor**" and the Non-Cash Recoveries to which it is entitled shall be "**Retained Non-Cash**".

(c) To the extent that, in relation to any distribution of Non-Cash Recoveries, there is a Cash Only Creditor the Security Agent shall not distribute any Retained Non-Cash to that Cash Only Creditor but shall otherwise treat the Non-Cash Recoveries in accordance with this Agreement.

(d) Subject to Clause 13.4 (*Security Agent protection*), the Security Agent shall hold any Retained Non-Cash and shall, acting on the instructions of the Cash Only Creditor entitled to it, manage, exploit, collect, realise and dispose of that Retained Non-Cash for cash consideration and shall distribute any Cash Proceeds of that Retained Non-

Cash to that Cash Only Creditor in accordance with Clause 15 (*Application of Proceeds*).

(e) On any such distribution of Cash Proceeds which are attributable to a disposal of any Retained Non-Cash, the extent to which such distribution is treated as discharging the Liabilities due to the relevant Cash Only Creditor shall be determined by reference to:

(i) the valuation which determined the extent to which the distribution of the Non-Cash Recoveries to the other Entitled Creditors discharged the Liabilities due to those Entitled Creditors; and

(ii) the Retained Non-Cash to which those Cash Proceeds are attributable.

(f) Each Primary Creditor shall, following a request by the Security Agent (acting in accordance with Clause 12.6 (*Security Agent's actions*)), notify the Security Agent of the extent to which paragraph 13.3(b)(i) above would apply to it in relation to any distribution or proposed distribution of Non-Cash Recoveries.

13.4 **Security Agent protection**

(a) No Distressed Disposal or Debt Disposal may be made in whole or part for Non-Cash Consideration if the Security Agent has reasonable grounds for believing that its receiving, distributing, holding, managing, exploiting, collecting, realising or disposing of that Non-Cash Consideration would have an adverse effect on it.

(b) If Non-Cash Consideration is distributed to the Security Agent pursuant to Clause 8.1 (*Turnover by the Creditors*) the Security Agent may, at any time after notifying the Creditors entitled to that Non-Cash Consideration and notwithstanding any instruction from a Creditor or group of Creditors pursuant to the terms of any Debt Document, immediately realise and dispose of that Non-Cash Consideration for cash consideration (and distribute any Cash Proceeds of that Non-Cash Consideration to the relevant Creditors in accordance with Clause 15 (*Application of Proceeds*)) if the Security Agent has reasonable grounds for believing that holding, managing, exploiting or collecting that Non-Cash Consideration would have an adverse effect on it.

(c) If the Security Agent holds Retained Non-Cash for a Cash Only Creditor (each as defined in Clause 13.3 (*Alternative to Non-Cash Consideration*)) the Security Agent may at any time, after notifying that Cash Only Creditor and notwithstanding any instruction from a Creditor or group of Creditors pursuant to the terms of any Debt Document, immediately realise and dispose of that Retained Non-Cash for cash consideration (and distribute any Cash Proceeds of that Retained Non-Cash to that Cash Only Creditor in accordance with Clause 15 (*Application of Proceeds*)) if the Security Agent has reasonable grounds for believing that holding, managing, exploiting or collecting that Retained Non- Cash would have an adverse effect on it.

14. FURTHER ASSURANCE – DISPOSALS AND RELEASES

Each Creditor and Debtor will:

(a) do all things that the Security Agent requests in order to give effect to Clause 11 (*Non-Distressed Disposals*) and Clause 12 (*Distressed Disposals and Appropriation*) which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent may consider to be necessary to give effect to the releases or disposals contemplated by those Clauses); and

(b) if the Security Agent is not entitled to take any of the actions contemplated by those Clauses or if the Security Agent requests that any Creditor or Debtor or Third Party Security Provider take any such action, take that action itself in accordance with the instructions of the Security Agent,

provided that the proceeds of those disposals are applied in accordance with Clause 11 (*Non-Distressed Disposals*) or Clause 12 (*Distressed Disposals and Appropriation*) as the case may be.

SECTION 6
PROCEEDS

15. APPLICATION OF PROCEEDS

15.1 Order of application

Subject to Clause 15.2 (*Prospective liabilities*), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Debt Document or in connection with the realisation or enforcement of all or any part of the Transaction Security, including any amounts recovered in relation to Guarantee Liabilities, (for the purposes of this Clause 15, the "**Recoveries**") shall be held by the Security Agent on trust to apply them at any time as the Security Agent (in its reasonable discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 15), in the following order of priority:

(a) in discharging any sums owing to the Security Agent (other than pursuant to Clause 16.2 (*Parallel debt*));

(b) in discharging all costs and expenses incurred by any Primary Creditor in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement or any action taken at the request of the Security Agent under Clause 7.5 (*Further assurance – Insolvency Event*);

(c) in payment or distribution to the Super Senior Notes Holders Representative on its own behalf and on behalf of the Super Senior Notes Holders, or the Super Senior Notes Holders, for application towards the discharge of the Super Senior Notes Liabilities (in accordance with the terms of the Super Senior Notes Finance Documents);

(d) in payment or distribution to

(i) the Senior Notes 1 Holders Representative on its own behalf and on behalf of the Senior Notes 1 Holders, or the Senior Notes 1 Holders, for application towards the discharge of the Senior Notes 1 Liabilities (in accordance with the terms of the Senior Notes 1 Finance Documents); and

(ii) the Senior Notes 2 Holders Representative on its own behalf and on behalf of the Senior Notes 2 Holders, or the Senior Notes 2 Holders, for application towards the discharge of the Senior Notes 2 Liabilities (in accordance with the terms of the Senior Notes 2 Finance Documents),

on a *pro rata* basis between paragraph (i) and paragraph (ii) above;

(e) if none of the Debtors or, as the case may be, Third Party Security Providers, are under any further actual or contingent liability under any Notes Finance Document, in payment or distribution to any person to whom the Security Agent is obliged to pay or distribute in priority to any Debtor or Third Party Security Provider; and

(f) the balance, if any, in payment or distribution to the relevant Debtor or Third Party Security Provider.

15.2 Prospective liabilities

Following a Distress Event the Security Agent may, in its reasonable discretion:

(a) hold any amount of the Recoveries which is in the form of cash, and any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any Non-Cash Consideration, in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) as the Security Agent shall think fit (the interest being credited to the relevant account); and

(b) hold, manage, exploit, collect and realise any amount of the Recoveries which is in the form of Non-Cash Consideration,

in each case for so long as the Security Agent shall think fit for later application under Clause 15.1 (*Order of application*) in respect of:

(i) any sum to any Security Agent; and

(ii) any part of the Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

15.3 **Investment of Cash Proceeds**

Prior to the application of the proceeds of the Security Property in accordance with Clause 15.1 (*Order of application*) the Security Agent may, in its reasonable discretion, hold all or part of any Cash Proceeds in one or more interest bearing suspense or impersonal accounts in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those monies in the Security Agent's discretion in accordance with the provisions of this Clause 15.

15.4 **Currency conversion**

(a) For the purpose of, or pending the discharge of, any of the Secured Obligations the Security Agent may:

(i) convert any moneys received or recovered by the Security Agent (including any Cash Proceeds) from one currency to another, at the Applicable Rate of Exchange; and

(ii) notionally convert the valuation provided in any opinion or valuation from one currency to another, at the Applicable Rate of Exchange.

(b) The obligations of any Debtor or Third Party Security Provider to pay in the due currency shall only be satisfied:

(i) in the case of paragraph 15.4(a)(i) above, to the extent of the amount of the due currency purchased after deducting the costs of conversion; and

(ii) in the case of paragraph 15.4(a)(ii) above, to the extent of the amount of the due currency which results from the notional conversion referred to in that paragraph.

15.5 **Permitted Deductions**

The Security Agent shall be entitled, in its reasonable discretion, (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 Taxes or otherwise) which it is or may be required by any law or regulation to make from any distribution or payment made by it under this Agreement, and to pay all Taxes which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as Security Agent under any of the Debt Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

15.6 **Good Discharge**

(a) Any distribution or payment to be made in respect of the Secured Obligations by the Security Agent may be made to the relevant Holders Representative on behalf of the relevant Primary Creditors or, if no Holders Representative has been appointed with respect to any Notes, directly to the relevant Primary Creditors.

(b) Any distribution or payment made as described in paragraph (a) above shall be a good discharge, to the extent of that payment or distribution, by the Security Agent:

(i) in the case of a payment made in cash, to the extent of that payment; and

(ii) in the case of a distribution of Non-Cash Recoveries, as determined by Clause 13.2 (*Cash value of Non-Cash Recoveries*).

(c) The Security Agent is under no obligation to make the payments to the Holders Representatives, or, as the case may be, to the Primary Creditors directly under paragraph (a) above in the same currency as that in which the Liabilities owing to the relevant Primary Creditor are denominated pursuant to the relevant Debt Document.

15.7 **Calculation of Amounts**

For the purpose of calculating any person's share of any amount payable to or by it, the Security Agent shall be entitled to:

(a) notionally convert the Liabilities owed to any person into a common base currency (decided in its reasonable discretion by the Security Agent), that notional conversion to be made at the spot rate at which the Security Agent is able to purchase the notional base currency with the actual currency of the Liabilities owed to that person at the time at which that calculation is to be made; and

(b) assume that all amounts received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the Debt Documents under which those Liabilities have arisen.

SECTION 7
THE PARTIES

16. THE SECURITY AGENT

16.1 Security Agent as trustee

(a) Subject to Clauses 16.3 (*German Transaction Security*), 16.4 (*Swiss Transaction Security*) and 16.5 (*French Transaction Security*):

(i) each of the Secured Parties (other than the Security Agent) hereby appoints the Security Agent as trustee (*Treuhänder*), agent and administrator for the purpose of holding on trust, accepting, administering and enforcing the Transaction Security for and on behalf of the other Secured Parties and the Security Agent hereby accepts its appointment as Security Agent;

(ii) the Security Agent declares that it holds the Security Property on trust (*treuhänderisch*) for the other Secured Parties on the terms contained in this Agreement.

(b) Each of the Secured Parties (other than the Security Agent) irrevocably authorises and instructs 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 Debt Documents together with any other incidental rights, powers, authorities and discretions.

(c) The Security Agent shall perform its, duties, rights, authorisations, obligations and responsibilities under this Agreement with respect to any Notes Liabilities, Notes Finance Documents, Parallel Obligations also as trustee for the Noteholders.

(d) Subject to the other terms of this Agreement, the Security Agent shall perform its tasks and functions set out in:

(i) this Clause 16.1 in respect of its appointment as security agent for the benefit of the Holders Representatives and the Noteholders;

(ii) Clause 16.2 (*Parallel debt*) in respect of the Parallel Obligations in respect of the Notes;

(iii) the other provisions of this Clause 16 in respect of its duties as trustee for the benefit of the Holders Representatives and the Noteholders;

(iv) Clause 10 (*Enforcement of Transaction Security*) in respect of the administration and enforcement of any Transaction Security or any Notes Guarantee; and

(v) Clause 15 (*Application of Proceeds*) in respect of the amounts owed to the Holders Representatives and the Noteholders,

(such tasks and functions, the "**Duties In Favour Of The Notes**") also as trustee for the benefit of the Holders Representatives and the Noteholders. This Agreement grants the Noteholders the right to demand that the Security Agent performs the Duties In Favour Of The Notes (contract for the benefit of a third party (*echter Vertrag zugunsten Dritter*) pursuant to Section 328 of the Civil Code). For the avoidance of doubt, Sections 334 and 335 of the Civil Code shall also apply. Clause 16.14 (*Exclusion of liability*) shall apply mutatis mutandis. Each relevant Debtor and each relevant Creditor agrees that the Security Documents entered into between them in addition in addition to this Agreement shall be subject to the relevant terms of this Agreement.

16.2 **Parallel debt**

(a) In this Clause 16.2:

"**Principal Obligations**" means, in relation to any Debtor or Third Party Security Provider, any amounts owing by that Debtor or Third Party Security Provider to a Primary Creditor under any Notes Finance Document save for any sums owing to the Security Agent under this Clause 16.2.

(b) Notwithstanding anything to the contrary expressed or implied in the Debt Documents:

(i) each Debtor and each Third Party Security Provider undertakes, as a separate and independent obligation by way of an acknowledgement of debt (*abstraktes Schuldanerkenntnis*) pursuant to Sections 780 and 781 Civil Code, to pay to the Security Agent sums equal to, and in the currency of, the Principal Obligations owed by it (the "**Parallel Obligations**") as and when the same fall due for payment under any Debt Document;

(ii) subject to sub-paragraphs (iv) and (v) below, the rights of the Secured Parties (other than the Security Agent) to payment of the Principal Obligations are several and without prejudice to the rights of the Security Agent to payment of the Parallel Obligations;

(iii) the Security Agent shall have its own independent right to payment of the amount payable by each Debtor and each Third Party Security Provider under this Clause 16.2, irrespective of any discharge of such Debtor's or such Third Party Security Provider's obligation to pay those amounts to the other Secured Parties resulting from failure by them to take appropriate steps in insolvency proceedings affecting that Debtor or that Third Party Security Provider to preserve their entitlement to be paid those amounts;

(iv) a Secured Party may demand payment by the Debtors or Third Party Security Providers of the Principal Obligations in accordance with the Debt Documents, provided that no demand for payment of the corresponding sums under the corresponding Parallel Obligations has already been made by the Security Agent in accordance with a Debt Document and further provided that if such demand has been made and has not been withdrawn, the relevant Debtor or, as the case may be, Third Party Security Provider, shall only be obliged to pay to the Security Agent;

(v) the payment by a Debtor or Third Party Security Provider of its Parallel Obligations to the Security Agent in accordance with this Clause 16.2 shall be deemed to be a full discharge of the corresponding Principal Obligations owed by it to the relevant Secured Party under the relevant Debt Document and the payment by a Debtor or, as the case may be, Third Party Security Provider, of its Principal Obligations owed by it to the relevant Secured Party under the relevant Debt Document shall be deemed to be a full discharge of the corresponding Parallel Obligations; and

(vi) nothing in this Agreement or any Debt Document shall in any way limit the Security Agent's right to act in the protection or preservation of the rights under, or to enforce any, Transaction Security as contemplated by this Agreement or the relevant Security Document.

(c) Notwithstanding paragraph (b) above, any payment made to the Noteholders shall be made to the respective Holders Representative unless expressly stated otherwise in any respective Notes Finance Document.

(d) Without limiting or affecting the Security Agent's rights against the Debtors or Third Party Security Providers (whether under this Clause 16.2 or under any other provision of the Debt Documents), the Security Agent agrees with each other Secured Party (on a several and divided basis (*auf einzelvertraglicher Basis*)) that it will not exercise its rights in respect of the Parallel Obligations except with the consent of the Instructing Group or as otherwise provided under this Agreement.

(e) Nothing in this Clause 16.2 other than sub-paragraphs 16.2(b)(i) to 16.2(b)(v) above shall in any way release, prejudice or otherwise affect any of the Liabilities of any Debtor or Third Party Security Provider under the Debt Documents. For the purpose of this Clause 16.2, the Security Agent acts in its own name and on behalf of itself and not as agent or representative of any other Party and the Transaction Security granted under the Debt Documents to the Security Agent to secure the Parallel Obligations is granted to the Security Agent in its capacity as creditor of the Parallel Obligations.

(f) If, in any jurisdiction, the acknowledgement of debt (*abstraktes Schuldanerkenntnis*) referred to in paragraph (a) above is not recognised or given effect to, for the purposes of taking Transaction Security in, or subject to the laws of, that jurisdiction and ensuring the continued validity of such Transaction Security only, the provisions of this Clause 16.2 shall be construed as constituting a joint creditorship between the Security Agent on the one hand and the creditors of the Principal Obligations on the other hand and accordingly the Security Agent will have its own independent right to demand performance by the relevant Debtor or Third Party Security Provider of those obligations, subject to the other provisions of this Clause 16.2 applying *mutatis mutandis*.

16.3 **German Transaction Security**

(a) The Security Agent shall

(i) hold and administer any Transaction Security governed by German law which is security transferred or assigned (*Sicherungseigentum/Sicherungsabtretung*) or otherwise transferred under a non-accessory security right (*nicht-akzessorische Sicherheit*) to it as trustee (*treuhänderisch*) for the benefit of the other Secured Parties; and

(ii) administer any Transaction Security governed by German law which is pledged (*Verpfändung*) or otherwise transferred to any Secured Party under an accessory security right (*akzessorische Sicherheit*) as agent and in its own name on the basis of the parallel debt pursuant to Clause 16.2 (*Parallel debt*).

(b) Each of the Secured Parties, to the extent it is a party to any German Security Documents, hereby authorises and instructs the Security Agent (whether or not by or through employees or agents):

(i) to exercise such rights, remedies, powers and discretions as are specifically delegated to or conferred upon the Security Agent or any Secured Party by the German Security Documents together with such powers and discretions as are reasonably incidental thereto;

(ii) to take such action on its behalf as may from time to time be authorised under or in accordance with the German Security Documents; and

(iii) to accept as its representative (*Stellvertreter*) any pledge or other creation of any accessory right made or to be made to such Secured Party in relation to the Notes Finance Documents and to agree as its representative (*Stellvertreter*) to amendments, supplements and alterations to any German Security Document which creates a pledge (*Verpfändung*) or any other accessory security right (*akzessorische Sicherheit*), including the release of such Security.

(c) Each Secured Party hereby ratifies and approves all acts and declarations previously done or made by the Security Agent on such Secured Party's behalf (including for the avoidance of doubt the declarations made by the Security Agent as representative without power of attorney (*Vertreter ohne Vertretungsmacht*) in relation to the creation of any pledge (*Pfandrecht*) on behalf and for the benefit of any Secured Party).

(d) Each Secured Party (other than the Security Agent) hereby releases the Security Agent, to the extent possible, from any restriction on double representation and self-dealing under any applicable law and in particular from the restrictions of Section 181 of the Civil Code to make use of any authorisation granted under this Agreement and to perform its duties and obligations as Security Agent under this Agreement and under the German Security Documents. A Secured Party which is barred by its constitutional documents or by-laws from granting such exemption, or is unable to do so for any other reason, shall notify the Security Agent accordingly. At the request of the Security Agent, each Secured Party shall provide the Security Agent with a separate written power of attorney (*Spezialvollmacht*) for the purposes of executing any relevant agreements and documents in connection with the Security Documents on its behalf (and such power of attorney shall, to the extent legally possible, contain a release from the restrictions of Section 181 of the Civil Code or any equivalent provision in any other jurisdiction).

16.4 **Swiss Transaction Security**

Without limiting any other rights of the Security Agent under this Agreement, in relation to the Transaction Security Documents governed by the laws of Switzerland (the "**Swiss Security Documents**") the following shall apply:

(i) the Security Agent holds:

(A) any security constituted by such Swiss Security Document (but only in relation to an assignment or any other non-accessory (*nicht akzessorische*) Security);

(B) the benefit of this paragraph (i); and

(C) any proceeds of such Security,

(ii) as fiduciary (*treuhänderisch*) in its own name but for the account of all relevant Secured Parties which have the benefit of such Security in accordance with this Agreement and the respective Swiss Security Documents;

(iii) each present and future Secured Party hereby authorises the Security Agent:

(A) acting for itself and in the name and for the account of such Secured Party to accept as its direct representative (*direkter Stellvertreter*) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Security made or expressed to be made to such Secured Party in relation to the Swiss Security Documents, to hold, administer and, if necessary, enforce any such Security on behalf of each relevant Secured Party which has the benefit of such Security;

(B) to agree as its direct representative (*direkter Stellvertreter*) to amendments and alterations to any Swiss Security Document which creates a pledge or any other Swiss law accessory (*akzessorische*) Security;

(C) to effect as its direct representative (*direkter Stellvertreter*) any release of a Security created under a Swiss Security Document in accordance with this Agreement; and

(D) to exercise as its direct representative (*direkter Stellvertreter*) such other rights granted to the Security Trustee hereunder or under the relevant Swiss Security Document;

(iv) the Security Agreement, when acting in its capacity as creditor of the Parallel Obligations, holds:

(A) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Security;

(B) any proceeds of such Security; and

(C) the benefit of this paragraph and of the Parallel Obligations, as creditor in its own right but for the benefit of the Secured Parties in accordance with this Agreement.

16.5 **French Transaction Security**

Without limiting any other rights of the Security Agent under this Agreement, in relation to the Transaction Security Documents governed by the laws of France (the "**French Security Documents**"), each Secured Party (other than the Security Agent) hereby appoints, pursuant to the provisions of article 1984 and seq. of the French Code Civil (*Code civil*), the Security Trustee to take, register, administer and enforce any and all the French Security Documents for the account of the Secured Parties.

16.6 **Instructions**

(a) The Security Agent shall:

(i) subject to paragraphs (d) and (e) 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 Instructing Group

(ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above (or, if this Agreement stipulates the matter is a decision for any other Creditor or group of Creditors, in accordance with instructions given to it by that Creditor or group of Creditors).

(b) The Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Instructing Group (or, if this Agreement stipulates the matter is a decision for any other Creditor or group of Creditors, from that Creditor or group of Creditors) 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) Save in the case of decisions stipulated to be a matter for any other Creditor or group of Creditors under this Agreement and unless a contrary intention appears in this Agreement, any instructions given to the Security Agent by the Instructing Group shall override any conflicting instructions given by any other Parties and will be binding on all Secured Parties.

(d) Paragraph (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 Secured Parties including Clauses 16.9 (*No duty to account*) to Clause 16.14 (*Exclusion of liability*), Clause 16.17 (*Confidentiality*) to Clause 16.24 (*Custodians and nominees*), Clause 16.27 (*Acceptance of title*) and Clause 16.28 (*Termination of trust*);

(iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:

(A) Clause 11 (*Non-Distressed Disposals*);

(B) Clause 15.1 (*Order of application*);

(C) Clause 15.2 (*Prospective liabilities*); and

(D) Clause 15.5 (*Permitted Deductions*).

(e) If giving effect to instructions given by the Instructing Group would (in the Security Agent's opinion) have an effect equivalent to an Intercreditor Amendment, the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Party (other than the Security Agent) whose consent would have been required in respect of that Intercreditor Amendment.

(f) In exercising any discretion to exercise a right, power or authority under the Debt 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 paragraph 16.6(d)(iv) above,

the Security Agent shall do so having regard to the interests of all the Secured Parties.

(g) The Security Agent may refrain from acting in accordance with any instructions of any Creditor or group of Creditors until it has received any indemnification and/or security that it may in its reasonable discretion require (which may be greater in extent than that contained in the Debt 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.

(h) Without prejudice to the provisions of Clause 10 (*Enforcement of Transaction Security*) and the remainder of this Clause 16.6, in the absence of instructions, the Security Agent may act (or refrain from acting) as it considers in its reasonable discretion to be appropriate.

16.7 **Duties of the Security Agent**

(a) The Security Agent's duties under the Debt Documents are solely mechanical and administrative in nature.

(b) The Security Agent shall promptly:

(i) forward to each Holders Representative or, if there is no Holders Representative with respect to any group of Creditors, directly to the respective Creditors a copy of any document received by the Security Agent from any Debtor under any Debt Document; and

(ii) forward to a Party the original or a copy of any document which is delivered to the Security Agent for that Party by any other Party.

(c) Except where a Debt 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) Without prejudice to Clause 21.3 (*Notification of prescribed events*), if the Security Agent receives notice from a Party referring to any Debt Document, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Primary Creditors.

(e) To the extent that a Party (other than the Security Agent) is required to calculate a Common Currency Amount, the Security Agent shall upon a request by that Party, promptly notify that Party of the relevant Applicable Rate of Exchange.

(f) The Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Debt Documents to which it is expressed to be a party (and no others shall be implied).

16.8 **No fiduciary duties to Debtors or Subordinated Creditors**

(a) Nothing in this Agreement constitutes the Security Agent as an agent, trustee or fiduciary of any Debtor or any Subordinated Creditor.

(b) The Security Agent has neither a financial nor a commercial duty of care (*Vermögensfürsorgepflicht*) for any person.

16.9 **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.

16.10 **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 any member of the Group or Third Party Security Provider.

16.11 **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 Instructing Group, any Creditors or any group of Creditors are duly given in accordance with the terms of the Debt Documents, and in particular any instructions received by any Holders Representative are duly given on behalf of the respective Noteholders in accordance with the respective Notes 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 Transaction Security, that all applicable conditions under the Debt 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 paragraph (A) above, may assume the truth and accuracy of that certificate.

(b) The Security Agent may assume (unless it has received notice to the contrary in its capacity as security trustee for the Secured Parties) that:

(i) no Default has occurred;

(ii) any right, power, authority or discretion vested in any Party or any group of Creditors has not been exercised; and

(iii) any notice made by the Company is made on behalf of and with the consent and knowledge of all the Debtors.

(c) The Security Agent may engage and obtain advice or services of any, and pay for any, lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.

(d) Without prejudice to the generality of paragraph (c) above or paragraph (e) 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 Primary Creditor) if the Security Agent in its reasonable opinion deems this to be desirable.

(e) 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.

(f) The Security Agent may act in relation to the Debt Documents and the Security Property through its officers, employees and agents (incl. its Affiliates) 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 gross negligence (*grobe Fahrlässigkeit*) or wilful misconduct (*Vorsatz*).

(g) Unless this Agreement expressly specifies otherwise, the Security Agent may disclose to any other Party any information it reasonably believes it has received as security trustee under this Agreement.

(h) Notwithstanding any other provision of any Debt Document to the contrary, the Security Agent is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

(i) Notwithstanding any provision of any Debt 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.

16.12 **Responsibility for documentation**

The Security Agent is not responsible or liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent, a Debtor or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property; or

(c) any determination as to whether any information provided or to be provided to any Secured 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.

16.13 **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 Debt Document; or

(c) whether any other event specified in any Debt Document has occurred; and

(d) the Security Agent shall not be deemed to have knowledge of the occurrence of a Default (unless, for the avoidance of doubt, the Security Agent has become aware of such occurrence, including pursuant to Clause 21.3 (*Notification of prescribed events*)).

16.14 **Exclusion of liability**

(a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Debt Document excluding or limiting the liability of the Security Agent), the Security Agent will not 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 Debt Document or the Security Property unless directly caused by its gross negligence (*grobe Fahrlässigkeit*) or wilful misconduct (*Vorsatz*);

(ii) exercising or not exercising any right, power, authority or discretion given to it by, or in connection with, any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Debt Document or the Security Property;

(iii) any shortfall which arises on the enforcement or realisation of the Security Property; or

(iv) without prejudice to the generality of paragraphs (i) to (iii) 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) may take any proceedings against any officer, employee or agent of the Security Agent in respect of any claim it might have against the Security Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Debt Document or any Security Property and any officer, employee or agent of the Security Agent may rely on this Clause 16 pursuant to section 328 para. 1 of the Civil Code (*echter berechtigender Vertrag zugunsten Dritter*).

(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 Primary Creditor, on behalf of any Primary Creditor and each Primary Creditor 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 Debt Document excluding or limiting the liability of the Security Agent, any liability of the Security Agent arising under or in connection with any Debt Document or the Security 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 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 at any time which increase the amount of that loss. In no event shall the Security Agent 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 has been advised of the possibility of such loss or damages.

16.15 **Primary Creditors' indemnity to the Security Agent**

(a) Each Primary Creditor shall (in the proportion that the Liabilities due to it bear to the aggregate of the Liabilities due to all the Primary Creditors for the time being (or, if the Liabilities due to the Primary Creditors are zero, immediately prior to their being reduced to zero)), indemnify the Security Agent within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Security Agent's gross negligence or wilful misconduct) in acting as Security Agent under, or exercising any authority conferred under, the Debt Documents (unless the relevant Security Agent has been reimbursed by a Debtor pursuant to a Debt Document).

(b) Subject to paragraph (c) below, the Company shall immediately on demand reimburse any Primary Creditor for any payment that Primary Creditor makes to the Security Agent pursuant to paragraph (a) above.

(c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which the Primary Creditor claims reimbursement relates to a liability of the Security Agent to a Debtor.

16.16 **Resignation of the Security Agent**

(a) The Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the Primary Creditors and the Company.

(b) Alternatively the Security Agent may resign by giving 30 days' notice to the Primary Creditors and the Company, in which case the Instructing Group may appoint a successor Security Agent.

(c) If the Instructing Group has not appointed a successor Security Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the retiring Security Agent (after consultation with the Holders Representatives) may appoint a successor Security Agent.

(d) The retiring Security Agent shall 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 Debt Documents. The Company shall, within three Business Days of demand, reimburse the retiring Security Agent for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.

(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 Security Property to that successor.

(f) The Company and each concerned Debtor will, upon the retiring Security Agent's request, reasonably support the transfer of the Security Property to such successor Security Agent, incl. the execution of relevant transfer agreements.

(g) Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under paragraph (b) of Clause 16.28 (*Termination of trust*) and paragraph (d) above) but shall remain entitled to the benefit of this Clause 16 and Clause 20.1 (*Indemnity to the Security Agent*) (and any Security Agent fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date). Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.

(h) The Instructing Group may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above.

16.17 **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 other of its 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 Debt Document to the contrary, the Security Agent is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

16.18 **Information from the Creditors**

Each Creditor 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.

16.19 **Credit appraisal by the Secured Parties**

Without affecting the responsibility of any Debtor for information supplied by it or on its behalf in connection with any Debt 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 Debt Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group and each Third Party Security Provider;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Debt Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security 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 Debt Document, the Security Property, the transactions contemplated by the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security 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 Debt Document, the transactions contemplated by any Debt Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt 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.

16.20 Security Agent's management time and additional remuneration

(a) Any amount payable to the Security Agent under Clause 16.15 (*Primary Creditors' indemnity to the Security Agent*), Clause 19 (*Costs and Expenses*) or Clause 20.1 (*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 agree in a Fee Letter (or in absence of such agreement, as the Security Agent may notify to the Company and the Primary Creditors), and is in addition to any other fee paid or payable to the Security Agent.

(b) In the event of:

   (i) a Default;

   (ii) the Security Agent and the Company agreeing that it is otherwise appropriate in the circumstances; or

   (iii) the Security Agent being requested by a Debtor or any Holders Representative to undertake duties which are of an exceptional nature and/or outside the scope of the normal duties of the Security Agent under the Debt Documents

   the Company shall upon demand to be accompanied by reasonable evidence pay to the Security Agent an additional remuneration (together with any applicable VAT).

(c) If the Security Agent and the Company 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 Company 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 Company) and the determination of any investment bank shall be final and binding upon the Parties.

16.21 **Reliance and engagement letters**

The Security Agent may obtain and rely on any certificate or report from any Debtor's auditor and may enter into any reliance letter or engagement letter relating to that certificate or report on such terms as it may consider appropriate (including restrictions on the auditor's liability and the extent to which that certificate or report may be relied on or disclosed).

16.22 **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 Debtor or Third Party Security Provider 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 Debt 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 Debt Document or of the Transaction Security;

(d) take, or to require any Debtor or Third Party Security Provider to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or

(e) require any further assurance in relation to any Security Document.

16.23 **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 Debt 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 Instructing Group requests it to do so in writing and the Security Agent fails to do so within fourteen days after receipt of that request.

16.24 **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.

16.25 **Delegation by the Security Agent**

(a) The Security Agent 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 may, in its reasonable discretion, think fit in the interests of the Secured Parties.

(c) The Security Agent shall not be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub- delegate.

16.26 **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 Company and the Primary Creditors 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 Debt 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.

16.27 **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 Debtor and Third Party Security Provider may have to any of the Charged Property and shall not be liable for, or bound to require any Debtor or Third Party Security Provider to remedy, any defect in its right or title.

16.28 **Termination of trust**

If the Security Agent, with the approval of each Holders Representative, determines that:

(a) all of the Secured Obligations and all other obligations secured by the 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 any Debtor pursuant to the Debt Documents,

then:

(i) the trusts (*Treuhandverhältnisse*) set out in this Agreement shall be terminated and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and

(ii) any Security Agent which has resigned pursuant to Clause 16.16 (*Resignation of the Security Agent*) shall release, without recourse or warranty, all of its rights under each Security Document.

16.29 **Intra-Group Lenders, Subordinated Creditors, Third Party Security Providers and Debtors: Power of Attorney**

Each Intra-Group Lender, each Subordinated Creditor, each Third Party Security Provider and each Debtor by way of security for its obligations under this Agreement irrevocably appoints the Security Agent to be its attorney to do anything which that Intra-Group Lender, Subordinated Creditor, Third Party Security Provider or Debtor (i) has authorised the Security Agent or any other Party to do under this Agreement or (ii) is itself lawfully required to do under this Agreement but has failed to do but in each case only after the Security Agent has notified in writing such Intra-group Lender. Subordinated Creditor, Third Party Security Provider or debt, as the case may be, of its intention to make use of such power of attorney not less than five (5) Business Days in advance and in the case of (ii) following the lapse of five (5) Business days after the Security Agent has given written notice of such failure to such Intra-group Lender, Subordinated Creditor, Third Party Security Provider or debtor, as the case may be. Each Intra-Group Lender, Subordinated Creditor, Third Party Security Provider and Debtor hereby relieves the Security Agent from the restrictions pursuant to section 181 of the Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions applicable to it pursuant to any other applicable law. An Intra-Group Lender, Subordinated Creditor, Third Party Security Provider or Debtor which is barred by its constitutional documents or by-laws from granting such exemption shall notify the Security Agent accordingly.

17. DECISIONS OF THE PRIMARY CREDITORS

(a) If, pursuant to the terms of this Agreement, a decision, instruction or consent of the Majority Senior Notes 1 Creditors, Majority Senior Notes 2 Creditors, Majority Senior Notes Creditors and/or Majority Super Senior Notes Creditors (including in relation to any such group of Primary Creditors acting in its capacity as Instructing Group) is required or requested, that decision, instruction or consent may be obtained through the decision-making procedure set out in this Clause 17.

(b) Any Party and each Noteholder may deliver a request for any decision, instruction or consent referred to in paragraph (a) above (a "**Decision Request**") in writing to the Security Agent. A Decision Request:

(i) must contain a form that can be voted on by the Noteholders with "Yes" or "No";

(ii) which contains instructions to the Security Agent, may contain only instructions for such actions which the Security Agent would, in accordance with the Debt Documents and applicable law, be permitted to take; and

(iii) which contains a deadline for voting under this Agreement (the "**Decision Deadline**"), may contain only a deadline which shall not be less than thirty days from the date on which the Security Agent has forwarded the Decision Request to, as regards a decision, instruction or consent of

(A) the Majority Senior Notes 1 Creditors, to the Senior Notes 1 Holders Representative;

(B) the Majority Senior Notes 2 Creditors, to the Senior Notes 2 Holders Representative;

(C) the Majority Senior Notes Creditors, to the Senior Notes 1 Holders Representative and the Senior Notes 2 Holders Representative; and/or

(D) the Majority Super Senior Notes Creditors, to the Super Senior Notes Holders Representative.

(c) The Security Agent shall promptly forward each Decision Request to the relevant Holders Representative or Holders Representatives as per paragraph (b)(iii) above.

(d) As soon as reasonably practicable following receipt of a Decision Request and in advance of the applicable Decision Deadline (if any), the relevant Holders Representative shall hold a vote or otherwise obtain instructions from the relevant Primary Creditors in accordance with the relevant Notes Finance Documents and applicable law, and otherwise as determined by the relevant Holders Representative in its reasonable discretion.

(e) Promptly following the process described in paragraph (d) above, the relevant Holders Representative shall inform the Security Agent of the outcome.

18. CHANGES TO THE PARTIES

18.1 Assignments and transfers

No Party may:

(a) assign any of its rights; or

(b) transfer any of its rights and obligations,

in respect of any Debt Documents or the Liabilities except as permitted by this Clause 18.

18.2 Change of Holders Representative

If any of the Initial Senior Notes 1 Holders Representative, Initial Senior Notes 2 Holders Representative or Initial Super Senior Notes Holders Representative (or any of successor in the capacity as joint representative (*gemeinsamer Vertreter*) of the Senior Notes 1 Holders, Senior Notes 2 Holders or Super Senior Notes Holders, respectively) is replaced by a newly appointed joint representative (*gemeinsamer Vertreter*) of the Senior Notes 1 Holders, Senior Notes 2 Holders or Super Senior Notes Holders, respectively, by way of resolution of the Senior Notes 1

Holders, Senior Notes 2 Holders or Super Senior Notes Holders, respectively, such newly appointed joint representative (*gemeinsamer Vertreter*) shall accede to this Agreement as a Holders Representative pursuant to Clause 18.5 (*Creditor/Holders Representative Accession Undertaking*) and shall only have any rights and obligations under this Agreement upon such accession having become effective.

18.3 **Change of Intra-Group Lender**

Subject to Clause 5.4 (*Acquisition of Intra-Group Liabilities*) and to the terms of the other Debt Documents, any Intra-Group Lender may:

(a) assign any of its rights; or

(b) transfer any of its rights and obligations,

in respect of the Intra-Group Liabilities to another member of the Group if that member of the Group has (if not already a Party as an Intra-Group Lender) acceded to this Agreement as an Intra-Group Lender, pursuant to Clause 18.5 (*Creditor/Holders Representative Accession Undertaking*).

18.4 **New Intra-Group Lender**

If any Intra-Group Lender or any member of the Group makes any loan to or grants any credit to or makes any other financial arrangement having similar effect with any Debtor, in an aggregate amount of €500,000.00 or more, the Company will procure that the person giving that loan, granting that credit or making that other financial arrangement (if not already a Party as an Intra-Group Lender) accedes to this Agreement as an Intra-Group Lender, pursuant to Clause 18.5 (*Creditor/Holders Representative Accession Undertaking*).

The Company shall use best efforts that PALMYRA verwaltungsgesellschaft mbH & Co. vermietungs KG S.e.n.n. accedes to this Agreement as an Intra-group Lender as soon as possible after the date of this Agreement, pursuant to Clause 18.5 (*Creditor/Holders Representative Accession Undertaking)*

18.5 **Creditor/Holders Representative Accession Undertaking**

With effect from the date of acceptance by the Security Agent of a Creditor/Holders Representative Accession Undertaking duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Creditor/Holders Representative Accession Undertaking:

(a) any Party ceasing entirely to be a Creditor or, as applicable, Holders Representative, shall be discharged from further obligations towards the Security Agent and other Parties under this Agreement and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date); and

(b) as from that date, the replacement or new Creditor or, as applicable, Holders Representative, shall assume the same obligations and become entitled to the same rights, as if it had been an original Party in the capacity specified in the Creditor/Holders Representative Accession Undertaking.

18.6 **New Subordinated Creditors**

Notwithstanding any restrictions for the incurrence of liabilities in the Notes Finance Documents, any person may accede to this Agreement in the capacity of a Subordinated Creditor if such person has executed and delivered to the Security Agent a Creditor Accession

Undertaking agreeing to be bound by all the terms of this deed as if it had originally been party to this Agreement as a Subordinated Creditor.

18.7 **New Debtor**

(a) If any member of the Group:

(i) incurs any Liabilities; or

(ii) gives any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities

the Debtors will procure that the person incurring those Liabilities or giving that assurance accedes to this Agreement as a Debtor in accordance with paragraph (b) below, no later than contemporaneously with the incurrence of those Liabilities or the giving of that assurance.

(b) With effect from the date of acceptance by the Security Agent of a Debtor/Third Party Security Provider Accession Document duly executed and delivered to the Security Agent by the new Debtor or, if later, the date specified in the Debtor/Third Party Security Provider Accession Document, the new Debtor shall assume the same obligations and become entitled to the same rights as if it had been an original Party as a Debtor.

18.8 **Third Party Security Provider**

(a) If any person which is not a member of the Group, gives any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the Debtors will procure that the person giving that assurance accedes to this Agreement as a Third Party Security Provider in accordance with paragraph 18.8 below, no later than contemporaneously with the giving of that assurance.

(b) With effect from the date of acceptance by the Security Agent of a Debtor/Third Party Security Provider Accession Document duly executed and delivered to the Security Agent by the new Third Party Security Provider or, if later, the date specified in the Debtor/Third Party Security Provider Accession Document, the new Debtor or, as the case may be, new Third Party Security Provider shall assume the same obligations and become entitled to the same rights as if it had been an original Party as a Third Party Security Provider.

18.9 **Additional parties**

Each of the Parties appoints the Security Agent to receive on its behalf each Debtor/Third Party Security Provider Accession Document and Creditor Accession Undertaking delivered to the Security Agent and the Security Agent shall, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement.

18.10 **Resignation of a Debtor**

(a) The Company may request that a Debtor (other than the Company) ceases to be a Debtor by delivering to the Security Agent a Debtor Resignation Request.

(b) The Security Agent shall accept a Debtor Resignation Request and notify the Company and each other Party of its acceptance if:

(i) the Company has confirmed that no Default is continuing or would result from the acceptance of the Debtor Resignation Request;

(ii) each Holders Representative notifies the Security Agent that that Debtor is not, or has ceased to be, a Notes Guarantor or a grantor of Transaction Security (and each Holders Representative hereby undertakes to promptly provide such confirmation upon request by the Company or the Security Agent); and

(iii) the Company confirms that that Debtor is under no actual or contingent obligations in respect of the Intra-Group Liabilities.

(c) Upon notification by the Security Agent to the Company of its acceptance of the resignation of a Debtor, that member of the Group (other than the Company) shall cease to be a Debtor and shall have no further rights or obligations under this Agreement as a Debtor.

18.11 **Cessation of a Third Party Security Provider**

(a) Following the release of all Transaction Security granted by a Third Party Security Provider (in accordance with the terms of the Debt Documents and this Agreement), such Third Party Security Provider shall cease to be a Third Party Security Provider and shall have no further rights or obligations under this Agreement as a Third Party Security Provider.

SECTION 8
ADDITIONAL PAYMENT OBLIGATIONS

19. COSTS AND EXPENSES

19.1 Transaction expenses

The Company shall, promptly on demand to be accompanied by reasonable supporting evidence, pay the Security Agent the amount of all costs and expenses (including legal fees) (together with any applicable VAT) properly incurred by the Security Agent in connection with the negotiation, preparation, execution and perfection of:

(a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and

(b) any other Debt Documents executed after the Effective Date.

19.2 Amendment costs

If a Debtor requests an amendment, waiver or consent, the Company shall, within three Business Days of demand to be accompanied by reasonable supporting evidence, reimburse the Security Agent for the amount of all costs and expenses (including legal fees) (together with any applicable VAT) properly incurred by the Security Agent and each Holders Representative in responding to, evaluating, negotiating or complying with that request or requirement.

19.3 Enforcement and preservation costs

The Company shall, within three Business Days of demand to be accompanied by reasonable supporting evidence, pay to the Security Agent the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under any Debt 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.

19.4 Stamp taxes

The Company shall pay and, within three Business Days of demand, indemnify the Security Agent against any cost, loss or liability the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Debt Document.

19.5 Interest on demand

If any Creditor, Third Party Security Provider or Debtor fails to pay any amount payable by it under this Agreement on its due date, interest shall accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum) at the rate which is two (2) per cent. per annum over the rate at which the Security Agent was being offered, by leading banks in the European interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Agent may from time to time select provided that if any such rate is below zero, that rate will be deemed to be zero.

19.6 Security Agent's fees

The Company shall pay to the Security Agent (for its own account) the Security Agent's fees in the amount and at the times agreed in a Fee Letter.

20. OTHER INDEMNITIES

20.1 Indemnity to the Security Agent

(a) The Company shall promptly indemnify the Security Agent against any cost, loss or liability (together with any applicable VAT) incurred by it as a result of:

(i) any failure by the Company to comply with its obligations under Clause 19 (*Costs and Expenses*)*;*

(ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised and which turned out not to be genuine, correct or appropriately;

(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 by the Debt Documents or by law;

(v) any default by any Debtor in the performance of any of the obligations expressed to be assumed by it in the Debt Documents;

(vi) instructing lawyers, accountants, tax advisers, surveyors, a Financial Adviser or other professional advisers or experts as permitted under this Agreement; or

(vii) acting as Security Agent under the Debt Documents or which otherwise relates to any of the Security Property (otherwise, in each case, than by reason of the relevant Security Agent's gross negligence or wilful misconduct).

(b) The Company expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 20.1 will not be prejudiced by any release or disposal under Clause 12 (*Distressed Disposals and Appropriation*) taking into account the operation of that Clause 12.

(c) The Security Agent 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 20.1 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

20.2 Company's indemnity to Primary Creditors

The Company shall promptly and as principal obligor indemnify each Primary Creditor against any cost, loss or liability (together with any applicable VAT), whether or not reasonably foreseeable, incurred by and supported by reasonable evidence any of them in relation to or arising out of the operation of Clause 12 (*Distressed Disposals and Appropriation*).

SECTION 9
ADMINISTRATION

21. INFORMATION

21.1 Dealings with Security Agent

The Security Agent has no duty to deal with each Noteholder individually and shall deal in this respect exclusively through the respective Holders Representative.

21.2 Disclosure between Primary Creditors and Security Agent

Notwithstanding any agreement to the contrary, each of the Debtors and Third Party Security Providers consent, until the Final Discharge Date, to the disclosure by any Primary Creditor and the Security Agent to each other (whether or not through a Holders Representative or the Security Agent) of such information concerning the Debtors as any Primary Creditor or the Security Agent shall see fit.

21.3 Notification of prescribed events

(a) If an Event of Default either occurs or ceases to be continuing the relevant Holders Representative or, the respective Primary Creditors, if applicable, shall, upon becoming aware of that occurrence or cessation, notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.

(b) If an Acceleration Event occurs the relevant Holders Representative or the respective Primary Creditors, if applicable, shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each other Party.

(c) If the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each Party of that action.

(d) If any Primary Creditor exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security it shall notify the Security Agent and the Security Agent shall, upon receiving that notification, notify each Party of that action.

(e) If any of the aggregate of the amounts of principal outstanding under the Senior Notes 1 are to be reduced (whether by way of redemption, repayment, prepayment, cancellation or otherwise), the Company and the Senior Notes 1 Holders Representative shall inform the Senior Notes 2 Holders Representative and the Super Senior Notes Holders Representative of the date, amount and manner of that proposed reduction.

(f) If any of the aggregate of the amounts of principal outstanding under the Senior Notes 2 are to be reduced (whether by way of redemption, repayment, prepayment, cancellation or otherwise), the Company and the Senior Notes 2 Holders Representative shall inform the Senior Notes 1 Holders Representative and the Super Senior Notes Holders Representative of the date, amount and manner of that proposed reduction.

(g) If any of the aggregate of the amounts of principal outstanding under the Super Senior Notes are to be reduced (whether by way of redemption, repayment, prepayment, cancellation or otherwise), the Company and the Super Senior Notes Holders Representative shall inform the Senior Notes 1 Holders Representative and the Senior Notes 2 Holders Representative of the date, amount and manner of that proposed reduction.

(h) If the Security Agent received a notification pursuant to paragraph (c) of Clause 1.5 (*Debtors', Intra-Group Lenders', Subordinated* Creditors' and Third Party Security Providers' agent), it shall, upon receipt of that notification, upon receiving that notification, notify each other Party.

22. NOTICES

22.1 Communications in writing

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

22.2 Security Agent's communications with Primary Creditors

The Security Agent shall be entitled to carry out all dealings with the Primary Creditors through their respective Holders Representatives and may give to the respective Holders Representatives any notice or other communication required to be given by the Security Agent to a Primary Creditor.

22.3 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 this Agreement is:

(a) in the case of the Company, that identified with its name below;

(b) in the case of the Security Agent, that identified with its name below; and

(c) in the case of each other Party, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party,

or any substitute address, fax number or department or officer which that Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

22.4 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with this Agreement 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 22.3 (*Addresses*), if addressed to that department or officer.

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

(c) Any communication or document to be made or delivered to the Debtors or Third Party Security Providers may be made or delivered to the Company for its own account and for the account of the Debtors and Third Party Security Providers. For that purpose each Debtor and Third Party Security Provider appoints the Company as its agent of receipt (*Empfangsvertreter*).

22.5 **Notification of address and fax number**

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 22.3 (*Addresses*) or changing its own address or fax number, the Security Agent shall notify the other Parties.

22.6 **Electronic communication**

(a) Any communication to be made between any two Parties under or in connection with this Agreement may be made by electronic mail or other electronic means to the extent that those two Parties agree that, unless and until notified **to** the contrary, this is to be an accepted form of communication and if those two Parties:

(i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt 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 Business Days' notice.

(b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

22.7 **English language**

(a) Any notice given under or in connection with this Agreement must be in English.

(b) All other documents provided under or in connection with this Agreement must be:

(i) in English; or

(ii) if not in English, and if so required by the Security Agent, 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.

23. PRESERVATION

23.1 **Partial invalidity**

The Parties agree that should at any time, any provisions of a Debt Document be or become void (*nichtig*), invalid or due to any reason ineffective (*unwirksam*) this will indisputably (*unwiderlegbar*) not affect the validity or effectiveness of the remaining provisions and that Debt Document will remain valid and effective, save for the void, invalid or ineffective provisions, without any Party having to argue (*darlegen*) and prove (*beweisen*) the Parties' intent to uphold the Debt Document even without the void, invalid or ineffective provisions.

The void, invalid or ineffective provision shall be deemed replaced by such valid and effective provision that in legal and economic terms comes closest to what the Parties intended or would have intended in accordance with the purpose of the relevant Debt Document if they had considered the point at the time of conclusion of such Debt Document.

23.2 **No impairment**

If, at any time after its date, any provision of a Debt Document (including this Agreement) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Debt Document, neither the binding nature nor the enforceability of that provision or any other provision of that Debt Document will be impaired as against the other party(ies) to that Debt Document.

23.3 **Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under a Debt Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any Debt Document. No election to affirm any Debt 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 Debt Document are cumulative and not exclusive of any rights or remedies provided by law.

23.4 **Waiver of defences**

The provisions of this Agreement or any Transaction Security will not be affected by an act, omission, matter or thing which, but for this Clause 23.4, would reduce, release or prejudice the subordination and priorities expressed to be created by this Agreement including (without limitation and whether or not known to any Party):

(a) any time, waiver or consent granted to, or composition with, any Debtor, any Third Party Security Provider or other person;

(b) the release of any Debtor, any Third Party Security Provider 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 Debtor, any Third Party Security Provider 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 any Debtor, any Third Party Security Provider or other person;

(e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Debt Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;

(g) any intermediate Payment of any of the Liabilities owing to the Primary Creditors in whole or in part; or

(h) any insolvency or similar proceedings.

23.5 **Priorities not affected**

Except as otherwise provided in this Agreement the priorities referred to in Clause 2 (*Ranking and Priority*) will:

(a) not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the Primary Creditors or by any intermediate reduction or increase in, amendment or variation to any of the Debt Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;

(b) apply regardless of the order in which or dates upon which this Agreement and the other Debt Documents are executed or registered or notice of them is given to any person; and

(c) secure the Liabilities owing to the Primary Creditors in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

24. CONSENTS, AMENDMENTS AND OVERRIDE

24.1 **Required consents**

(a) Subject to paragraph (a) and Clause 24.4 (*Exceptions*), this Agreement may be amended or waived only with the consent of each Holders Representative and the Security Agent, provided that, to the extent than an amendment, waiver or consent only affects one class of Creditors, and such amendment, waiver or consent could not reasonably be expected to adversely affect the interests of the other classes of Creditors, only the consent of the Creditors of that class (being, as regards the class of Senior Notes 1 Holders, Senior Notes 2 Holders or Super Senior Notes Holders, the Senior Notes 1 Holders Representative, the Senior Notes 2 Holders Representative or the Super Senior Notes Holders Representative, respectively) shall be required, and, for the avoidance of doubt, an amendment or waiver which has the effect of changing or relates to:

(i) Clauses 8 (*Turnover of Receipts*), 9 (*Redistribution*), 15 (*Application of Proceeds*) and 24 (*Consents, Amendments and Override*);

(ii) the order of priority or subordination;

(iii) paragraphs (d)(iii), (e) and (f) of Clause 16.6 (*Instructions*); or

(iv) the definitions of "Instructing Group", "Majority Senior Notes Creditors", "Majority Senior Notes 1 Creditors", "Majority Senior Notes 2 Creditors", "Majority Super Senior Notes Creditors", "Noteholders", "Primary Creditors", "Senior Notes Holders", " Senior Notes 1 Holders ", Senior Notes 2 Holders and "Super Senior Notes Holders"

shall not be made without the consent of

(A) each Holders Representative; and

(B) the Security Agent (to the extent the amendment or waiver would adversely affect the Security Agent).

(b) Each Debtor, each Intra-Group Lender, each Subordinated Creditor and each Third-Party Security Provider agrees to any amendment, waiver, or consent permitted by this Clause 24 which is agreed by the Company. This includes any amendment, waiver and consent which, but for this paragraph (b), would require the consent of the relevant Debtor, Intra-Group Lender, Subordinated Creditor or, as applicable, Third-Party Security Provider.

24.2 **Amendments and Waivers: Security Documents and Guarantee Agreements**

(a) Subject to paragraph (b) below and to Clause 24.4 (*Exceptions*) and unless the provisions of any Debt Document expressly provide otherwise, the Security Agent may, if authorised by the Instructing Group, and if the Company consents, amend the terms of, waive any of the requirements of or grant consents under, any of the Security Documents or Guarantee Agreements which shall be binding on each Party.

(b) Subject to paragraph (c) of Clause 24.4 (*Exceptions*), any amendment or waiver of, or consent under, any Security Document or Guarantee Agreement which has the effect of changing or which relates to:

(i) the nature or scope of the Charged Property;

(ii) the manner in which the proceeds of enforcement of the Transaction Security or Guarantee Liability are distributed; or

(iii) the release of any Transaction Security or Guarantee Liability,

shall not be made without the prior written consent of each Holders Representative.

24.3 **Effectiveness**

(a) Any amendment, waiver or consent given in accordance with this Clause 24 will be binding on all Parties and the Security Agent may effect, on behalf of any Primary Creditor, any amendment, waiver or consent permitted by this Clause 24.

(b) Without prejudice to the generality of Clause 16.11 (*Rights and discretions*) the Security Agent may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Agreement.

24.4 **Exceptions**

(a) Subject to paragraph (c) below, if the amendment, waiver or consent may impose new or additional obligations on or withdraw or reduce the rights of any Party other than:

(i) in the case of a Primary Creditor, in a way which affects or would affect Primary Creditors of that Party's class generally; or

(ii) in the case of a Debtor, to the extent consented to by the Company under paragraph (a) of Clause 24.2 (*Amendments and Waivers: Security Documents*),

the consent of that Party is required.

(b) Subject to paragraph (c) below, an amendment, waiver or consent which relates to the rights or obligations of any Holders Representative or the Security Agent (including any ability of the Security Agent to act in its reasonable discretion under this Agreement) may not be effected without the consent of that Holders Representative or, as the case may be, the Security Agent.

(c) Neither paragraph (a) nor (b) above, nor paragraph (b) of Clause 24.2 (*Amendments and Waivers: Security Documents*) shall apply:

(i) to any release of Transaction Security, claim or Liabilities; or

(ii) to any consent

which, in each case, the Security Agent gives in accordance with Clause 11 (*Non-Distressed Disposals*) or Clause 12 (*Distressed Disposals and Appropriation*).

24.5 **Deemed consent**

(a) If, at any time prior to the Final Discharge Date, the Primary Creditors (or the relevant Holders Representative) give a Consent in respect of any of the Notes Finance Documents then, if that action was permitted by the terms of this Agreement, the Intra-Group Lenders, the Company and the Subordinated Creditors will (or will be deemed to):

(i) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

(ii) do anything (including executing any document) that the Primary Creditors may reasonably require to give effect to this paragraph (a).

24.6 **Excluded consents**

Clause 24.5 (*Deemed consent*) does not apply to any Consent which has the effect of:

(a) increasing or decreasing the Liabilities;

(b) changing the basis upon which any Permitted Payments are calculated (including the timing, currency or amount of such Payments); or

(c) changing the terms of this Agreement or of any Security Document.

24.7 **Agreement to override**

(a) Unless expressly stated otherwise in this Agreement and save for any German Security Document that is or has been notarised, this Agreement overrides anything in the Debt Documents to the contrary other than sub-paragraph (j) of para. (14) (*Limitation of Guarantee – German Guarantor*) of Sec. 1 (*Guarantee, Status*) of the Notes Guarantee Agreement.

(b) Sub-paragraph (j) of para (14) (Limitation of Guarantee – German Guarantor) of Sec. 1 (Guarantee, Status) of the Notes Guarantee Agreement shall override anything in the debt Documents to the contrary.

(c) The Company shall use its best efforts to terminate any investments by private investors who are invested in Hannover Leasing Private Invest Beteiligungs GmbH as soon as reasonably possible.

25. CONCLUSION OF THIS AGREEMENT (*VERTRAGSSCHLUSS*)

25.1 The Parties to this Agreement may choose to conclude this Agreement by an exchange of signed signature page(s), transmitted by any means of telecommunication (*telekommunikative Übermittlung*) such as by way of electronic photocopy.

25.2 If the Parties to this Agreement choose to conclude this Agreement pursuant to Clause 25.1 above, they will transmit the signed signature page(s) of this Agreement to Milbank LLP, addressed to Dr. Matthias Eisen of Robert Kastl (each a "**Recipient**") by electronic mail to meisen@milbank.com or rkastl@milbank.com The Agreement will be considered concluded once one Recipient has actually received the signed signature page(s) (*Zugang der Unterschriftsseite*(*n*)) from all Parties to this Agreement (whether by way of fax, electronic photocopy or other means of telecommunication) and at the time of the receipt of the last outstanding signature page(s) by such one Recipient.

25.3 For the purposes of this Clause 25 only, the Parties to this Agreement appoint each Recipient as their attorney (*Empfangsvertreter*) and expressly allow (*gestatten*) each Recipient to collect the signed signature page(s) from all and for all Parties to this Agreement. For the avoidance of doubt, each Recipient will have no further duties connected with its position as Recipient. In particular, each Recipient may assume the conformity to the authentic original(s) of the signature page(s) transmitted to it by means of telecommunication, the genuineness of all signatures on the original signature page(s) and the signing authority of the signatories.

SECTION 10
GOVERNING LAW AND ENFORCEMENT

26. GOVERNING LAW

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

27. ENFORCEMENT

27.1 Jurisdiction

(a) The courts of Frankfurt am Main 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 Frankfurt am Main are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 27.1 is for the benefit of the Secured Parties only. As a result, 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.

27.2 Service of process

(a) Without prejudice to any other mode of service allowed under any relevant law, each Debtor, each Intra-Group Lender, each Subordinated Creditor and each Third Party Security Provider (unless incorporated in Germany):

(i) irrevocably appoints Corestate Capital Group GmbH, a limited liability company incorporated under the laws of Germany, registered with the commercial register of the local court of Frankfurt am Main under number HRB 107163, (the "**Process Agent**") as its agent for service of process in relation to any proceedings before the German courts in connection with this Agreement;

(ii) agrees that failure by a process agent to notify the relevant Debtor or Third Party Security Provider of the process will not invalidate the proceedings concerned; and

(iii) undertakes to deliver to the Corestate Capital Group GmbH without undue delay after the date of this Agreement a Process Agent Appointment Letter and to send a copy of such executed Process Agent Appointment Letter to the Security Agent.

(b) The Process Agent hereby acknowledges the appointment. The Process Agent shall ensure that documents to be served to a Debtor or a Third Party Security Provider may validly be served by delivery to the Process Agent. In particular, the Process Agent shall notify the Security Agent of any change of address, accept any documents delivered to it on behalf of a Debtor or a Third Party Security Provider and fulfil any requirements of section 171 of the Code of Civil Procedure, in particular present the original Process Agent Appointment Letter to any person effecting the service of process as required pursuant to section 171 sentence 2 of the Code of Civil Procedure.

(c) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Company (in the case of an agent for service of process for a Debtor), or the relevant Subordinated Creditor or Third Party Security Provider must without undue delay (and in any event within five (5) days of gaining knowledge of such event taking place) appoint another agent on terms acceptable to the Security Agent (acting on the instructions of the Instructing Group). Failing this, the Security Agent (acting on the instructions of the Instructing Group) may appoint another agent for this purpose.

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

SCHEDULE 1
The Parties

Part 1
The Original Intra-Group Lenders

1. CORESTATE CAPITAL HOLDING S.A.
2. HFS HELVETIC FINANCIAL SERVICES AG
3. CORESTATE CAPITAL AG
4. CORESTATE CAPITAL GROUP GMBH
5. HANNOVER LEASING PRIVATE INVEST BETEILIGUNGS GMBH
6. CORESTATE STUDENT HOME HOLDING S.À R.L.
7. DONALD HOLDCO S.À R.L.
8. IBERIAN INVESTMENT II HOLDCO S.À R.L.
9. HANNOVER LEASING GMBH & CO. KG
10. HANNOVER LEASING INVESTMENT GMBH
11. HERSCHEL VERWALTUNGSGESELLSCHAFT MBH
12. TEMPELHOF TWINS TOPCO S.À R.L.
13. AKANTHUS VERWALTUNGSGESELLSCHAFT MBH
14. DIV DEUTSCHE IMMOBILIENFONDS GMBH

Part 2
The Original Debtors

1. CORESTATE CAPITAL HOLDING S.A.
2. HFS HELVETIC FINANCIAL SERVICES AG
3. CORESTATE CAPITAL AG
4. CORESTATE CAPITAL GROUP GMBH
5. HL INVESTMENT BETEILIGUNGS GMBH
6. HANNOVER LEASING BELGIEN BETEILIGUNGS GMBH & CO. KG
7. DELTA VERMIETUNGSGESELLSCHAFT MBH
8. CORESTATE CAPITAL ADVISORS GMBH
9. TEMPELHOF TWINS HOLDCO S.À R.L.
10. HANNOVER LEASING PRIVATE INVEST BETEILIGUNGS GMBH

11. HANNOVER LEASING BETEILIGUNGS GMBH & CO. KG

12. ORION VERWALTUNGSGESELLSCHAFT MBH & CO. BETEILIGUNGS KG

13. CRM STUDENTS LTD

14. BEGO PROPCO I, S.L.U.

15. CORESTATE CAPITAL SERVICES GMBH

16. KERA VERWALTUNGSGESELLSCHAFT MBH

17. GABRIELA PROPCO, S.L.U.

18. PLUTOS HOLDCO S.À R.L.

19. ECHO HOLDCO S.À R.L.

20. CORESTATE CAPITAL FRANCE HOLDCO SAS

21. GABRIELA HOLDCO S.À R.L.

22. BEGO HOLDCO S.À R.L.

23. GINOVA HOLDCO S.À R.L.

24. STAM EUROPE SAS

SCHEDULE 2
Transaction Security Documents

1. First ranking share pledge agreement by the Company relating to 100% of the present and future shares in Corestate Capital Group GmbH;

2. first ranking share pledge agreement by the Company relating to 100% of the present and future shares in Corestate Bank GmbH;

3. first ranking share pledge agreement by Corestate Capital Group GmbH relating to 100% of the present and future shares in Corestate Capital Advisors GmbH;

4. first ranking interest pledge agreement by Corestate Capital Group GmbH relating to 94.9% of the limited partners' interests in Hannover Leasing GmbH & Co. KG;

5. first ranking share pledge agreement by Corestate Capital Group GmbH relating to 100% of the present and future shares in Hannover Leasing Verwaltungsgesellschaft mbH;

6. first ranking share pledge agreement by the Company relating to 100% of the present and future shares in Corestate Capital AG;

7. first ranking share pledge agreement the Company relating to 100% of the present and future shares in HFS Helvetic Financial Services AG;

8. first ranking share pledge agreement by HFS Helvetic Financial Services AG relating to 100% of the present and future shares in Corestate Capital Services GmbH;

9. first ranking share charge by the Company relating to 100% of the present and future shares in CRM Students Ltd.;

10. first ranking financial securities account pledge agreement by the Company relating to 100% of the financial securities account (*compte titres*) on which the shares of Corestate Capital France HoldCo SAS have been deposited;

11. first ranking share pledge agreement by the Company relating to 100% of the present and future shares in Gabriela HoldCo S.à r.l.;

12. first ranking share pledge agreement by the Company relating to 100% of the present and future shares in Bego HoldCo S.à r.l.;

13. first ranking share pledge agreement by the Company relating to 100% of the present and future shares in Ginova HoldCo S.à r.l. (formerly Ginova AIF S.à r.l.);

14. first ranking bank account pledge agreement relating to all present and future bank accounts of the Company;

15. first ranking bank account pledge agreement relating to all present and future bank accounts of Corestate Capital Group GmbH;

16. first ranking bank account pledge agreement relating to all present and future bank accounts of Corestate Capital AG;

17. first ranking bank account pledge agreement relating to all present and future bank accounts of HFS Helvetic Financial Services AG;

18. first ranking bank account pledge agreement relating to all present and future bank accounts of CRM Students Ltd. (other than any accounts held for and on behalf of clients);

19. first ranking bank account pledge agreement relating to all present and future bank accounts of STAM Europe SAS;

20. first ranking bank account pledge agreement relating to all present and future bank accounts of Corestate Capital Advisors GmbH (except for Spanish law governed bank accounts of Corestate Capital Advisors GmbH's Spanish branch with Banco de Sabadell. S.A. and Commerzbank AG);

21. first ranking bank account pledge agreements relating to all present and future bank accounts of Corestate Capital Services GmbH;

22. first ranking bank account pledge agreements relating to all present and future bank accounts of Gabriela HoldCo S.à r.l.;

23. first ranking bank account pledge agreements relating to all present and future bank accounts of Bego HoldCo S.à r.l.;

24. first ranking bank account pledge agreements relating to all present and future bank accounts of Ginova HoldCo S.à r.l. (formerly Ginova AIF S.à r.l.);

25. first ranking pledge agreement by the Company relating to certain senior notes in a nominal amount of EUR 35,500,000 issued by RAW-Ost HC S.à r.l. (ISIN: DE000A3K0AQ5) which are held in custody in a depositary account;

26. first ranking receivables pledge agreement by the Company relating to all present and future intra-group claims of the Company against Gabriela HoldCo S.à r.l., Bego HoldCo S.à r.l. and Ginova HoldCo S.à r.l. (formerly Ginova AIF S.à r.l.);

27. assignment agreement by the Company, Corestate Capital Group GmbH and HFS Helvetic Financial Services AG relating to all present and future intra-group claims of the Company against any member of the Group (other than Gabriela HoldCo S.à r.l., Bego HoldCo S.à r.l. and Ginova HoldCo S.à r.l. (formerly Ginova AIF S.à r.l.));

28. assignment agreement by Corestate Capital Services GmbH relating to certain bridge loan receivables of Corestate Capital Services GmbH against Aggregate HH GmbH, AEIOU 102. GmbH, Real Estate Portfolio Consulting AG, Echo HoldCo S.à r.l., Echo HoldCo 2 AIF S.à r.l., North Gate Besitz GmbH, King AIF 2 S.à r.l., CC Gruppe AG, Gröner Group GmbH, Aggregate Deutschland S.A., IOI Beteiligungs GmbH and FOKUS 6. Vermögensverwaltungs GmbH;

29. first ranking pledge agreement by HFS Helvetic Financial Services AG relating to the shares held by HFS Helvetic Financial Services AG in the special investment funds (*Spezial-Sondervermögen*) STRATOS Immobilienanleihenfonds II, STRATOS Immobilienanleihenfonds IV and STRATOS Immobilienanleihenfonds V; and

30. assignment agreement by HFS Helvetic Financial Services AG relating to success/performance fees owing to HFS Helvetic Financial Services AG in connection with advisory/consulting services on behalf of and/or for the benefit of HANSAINVEST Hanseatische Investment-Gesellschaft mbH with respect to the special investment funds (*Spezial-Sondervermögen*) STRATOS Immobilienanleihenfonds II and STRATOS Immobilienanleihenfonds IV.

SCHEDULE 3
Form of Debtor/Third Party Security Provider Accession Document

To: [ ] as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below

From: [*Acceding Debtor/Third Party Security Provider*] (the "**Acceding [Debtor]/[Third Party Security Provider]**") and [*Company*]

Dated:

Dear Sirs

Corestate Capital Holding S.A. – Intercreditor Agreement
dated [ ] (the "Intercreditor Agreement")

1. We refer to the Intercreditor Agreement. This is a Debtor/Third Party Security Provider Accession Document. Terms defined in the Intercreditor Agreement have the same meaning in this Debtor/Third Party Security Provider Accession Document unless given a different meaning in this Debtor/Third Party Security Provider Accession Document.

2. The Acceding [Debtor]/[Third Party Security Provider] intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]/[provide third party security in respect of Liabilities under the following documents]:

   [*Insert details (date, parties and description) of relevant documents including, as the case may be, any limitation language applicable to the relevant Third Party Security Provider*].

3. The Acceding Debtor agrees to become a Debtor and to be bound by the terms of the Intercreditor Agreement as a Debtor pursuant to Clause 18.7 (*New Debtor*) of the Intercreditor Agreement. [*Acceding Debtor*] is a company duly incorporated under the laws of [*name of relevant jurisdiction]* and is a limited liability company and registered number [ ].

4. The Acceding [Debtor]/[Third Party Security Provider]'s administrative details are as follows:

   Address:

   Fax No.:

   E-mail:

   Attention:

5. [In consideration of the Acceding Debtor being accepted as an Intra-Group Lender for the purposes of the Intercreditor Agreement, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Agreement as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by an Intra-Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement].

6. This Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by German law.

The Acceding [Debtor]/[Third Party Security Provider]:

[*Full Name of Acceding [Debtor]/[Third Party Security Provider]*]

By: ______________________________

Name(s):

Title(s):

The Security Agent:

[*Full Name of Security Agent*]

By: ______________________________

Name(s):

Title(s):

The Company:

[●]

By: ______________________________

Name(s):

Title(s):

SCHEDULE 4
Form of Creditor/Holders Representative Accession Undertaking

To: [*Insert full name of Security Agent*] for itself and each of the other parties to the Intercreditor Agreement referred to below.

From: [*Acceding party*]

THIS UNDERTAKING is made on [date] by [*insert full name of new acceding party*] (the "**Acceding [*insert capacity in which the relevant person is acceding*]**") in relation to the intercreditor agreement (the "**Intercreditor Agreement")** dated [ ] between, among others, Corestate Capital Holding S.A. as company, [●] as security agent, the other Creditors and the other Debtors (each as defined in the Intercreditor Agreement) . Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding [*insert capacity in which the relevant person is acceding*] being accepted as [*insert capacity in which the relevant person is acceding*] for the purposes of the Intercreditor Agreement, the Acceding [*insert capacity in which the relevant person is acceding*] confirms that, as from [date], it intends to be party to the Intercreditor Agreement as [*insert capacity in which the relevant person is acceding*] and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by [*insert capacity in which the relevant person is acceding*] and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

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

THIS UNDERTAKING has been entered into on the date stated above and is executed by the Acceding [*insert capacity in which the relevant person is acceding*] and is delivered on the date stated above.

Acceding [*insert capacity in which the relevant person is acceding*]

[*insert full name of acceding person*]

By:

Address:

Fax:

E-mail:

Accepted by the Security Agent

____

for and on behalf of

[*Insert full name of current Security Agent*]

Date:

SCHEDULE 5
Debtor Resignation Request

To: [ ] as Security Agent

From: [*resigning Debtor*] and [*Company*]

Dated:

Dear Sirs

Corestate Capital Holding S.A. – Intercreditor Agreement dated [ ] (the "Intercreditor Agreement")

1. We refer to the Intercreditor Agreement. This is a Debtor Resignation Request. Terms defined in the Intercreditor Agreement have the same meaning in this Debtor Resignation Request unless given a different meaning in this Debtor Resignation Request.

2. Pursuant to Clause [18.10] (*Resignation of a Debtor*) of the Intercreditor Agreement we request that [*resigning Debtor*] be released from its obligations as a Debtor under the Intercreditor Agreement.

3. We confirm that:

   (a) no Default is continuing or would result from the acceptance of this request; and

   (b) [*resigning Debtor*] is under no actual or contingent obligations in respect of the Intra-Group Liabilities or Subordinated Liabilities.

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

[Company]	[*resigning Debtor*]
By:	By:

SCHEDULE 6
Form of process agent appointment Letter

To: [●]

From: [*Obligor*]

Date:

Dear Sirs

Corestate Capital Holding S.A. –Intercreditor Agreement dated [ ] (the "Intercreditor Agreement")

We refer to the Intercreditor Agreement and hereby irrevocably appoint you as our agent for service of process in relation to any proceeding before any German court in connection with the above mentioned Intercreditor Agreement or any other Debt Document (as defined in the Intercreditor Agreement).

Signed: ____________________________	Signed: ________________________________
Director of [*Debtor/Intra-Group Lender/Subordinated Creditor/Third Party Security Provider*]	Director of [*Debtor*]

SIGNATURES

[*The signature pages of this Intercreditor Agreement are intentionally omitted for the purpose of this Global Note*]