

## **TERMS AND CONDITIONS**



**Cavebreak Designated Activity Company**

**Maximum EUR 200,000,000  
Senior Secured Callable Floating Rate Bonds  
2026/2032**

ISIN: NO0013755520

First Issue Date: 6 July 2026

## SELLING RESTRICTIONS

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No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Bonds or the possession, circulation or distribution of any document or other material relating to the Issuer or the Bonds in any jurisdiction other than Sweden, where action for that purpose is required. Persons into whose possession this document comes are required to inform themselves about, and to observe, such restrictions.

The Bonds have not been and will not be registered under the U.S. Securities Act of 1933, as amended, and are subject to U.S. tax law requirements. The Bonds may not be offered, sold or delivered within the United States of America or to, or for the account or benefit of, U.S. Persons (as such terms are defined in regulations), except for “Qualified Institutional Buyers” within the meaning of Rule 144A under the U.S. Securities Act.

## PRIVACY STATEMENT

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

The personal data collected will be processed by the Issuer, the Agent and the Paying Agent for the following purposes: (i) to exercise their respective rights and fulfil their respective obligations under the Finance Documents, (ii) to manage the administration of the Bonds and payments under the Bonds, (iii) to enable the Bondholders to exercise their rights under the Finance Documents and (iv) to comply with its obligations under applicable laws and regulations.

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

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

Subject to any legal preconditions, the applicability of which have to be assessed in each individual case, data subjects have the rights as follows. Data subjects have right to get access to their personal data and may request the same in writing at the address of the Issuer, the Agent or the Paying Agent (as applicable). In addition, data subjects have the right to (i) request that personal data is rectified or erased, (ii) object to specific processing, (iii) request that the processing be restricted and (iv) receive personal data provided by themselves in machine-readable format.

Data subjects are also entitled to lodge complaints with the relevant supervisory authority if dissatisfied with the processing carried out.

The Issuer’s, the Agent’s and the Paying Agent’s addresses, and the contact details for their respective data protection officers (if applicable), are found on their respective websites: [www.staycity.com](http://www.staycity.com), [www.nordictrustee.com](http://www.nordictrustee.com) and [www.arctic.com](http://www.arctic.com).

## TABLE OF CONTENTS

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| Clause                                                            | Page |
|-------------------------------------------------------------------|------|
| 1. DEFINITIONS AND CONSTRUCTION .....                             | 1    |
| 2. STATUS OF THE BONDS .....                                      | 14   |
| 3. THE AMOUNT OF THE BONDS AND UNDERTAKING TO MAKE PAYMENTS ..... | 14   |
| 4. USE OF PROCEEDS .....                                          | 15   |
| 5. ESCROW OF PROCEEDS .....                                       | 15   |
| 6. CONDITIONS PRECEDENT AND SUBSEQUENT .....                      | 15   |
| 7. THE BONDS AND TRANSFERABILITY .....                            | 18   |
| 8. BONDS IN BOOK-ENTRY FORM .....                                 | 19   |
| 9. RIGHT TO ACT ON BEHALF OF A BONDHOLDER .....                   | 19   |
| 10. PAYMENTS IN RESPECT OF THE BONDS .....                        | 20   |
| 11. INTEREST .....                                                | 21   |
| 12. REDEMPTION AND REPURCHASE OF THE BONDS .....                  | 22   |
| 13. TRANSACTION SECURITY AND GUARANTEES .....                     | 23   |
| 14. INFORMATION UNDERTAKINGS .....                                | 25   |
| 15. FINANCIAL COVENANTS .....                                     | 26   |
| 16. SPECIAL UNDERTAKINGS .....                                    | 28   |
| 17. TERMINATION OF THE BONDS .....                                | 31   |
| 18. DECISIONS BY BONDHOLDERS .....                                | 35   |
| 19. AMENDMENTS AND WAIVERS .....                                  | 40   |
| 20. REPLACEMENT OF THE BASE RATE .....                            | 41   |
| 21. THE AGENT .....                                               | 45   |
| 22. THE PAYING AGENT .....                                        | 49   |
| 23. THE CSD .....                                                 | 49   |
| 24. NO DIRECT ACTIONS BY BONDHOLDERS .....                        | 50   |
| 25. TIME-BAR .....                                                | 50   |
| 26. NOTICES AND PRESS RELEASES .....                              | 51   |
| 27. FORCE MAJEURE .....                                           | 52   |
| 28. GOVERNING LAW AND JURISDICTION .....                          | 52   |
| <br>                                                              |      |
| Schedule                                                          | Page |
| SCHEDULE 1 FORM OF COMPLIANCE CERTIFICATE .....                   | 54   |
| SCHEDULE 2 INTERCREDITOR PRINCIPLES .....                         | 57   |
| SCHEDULE 3 AGREED SECURITY PRINCIPLES .....                       | 62   |

# TERMS AND CONDITIONS

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## 1. DEFINITIONS AND CONSTRUCTION

### 1.1 Definitions

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

“**Account Operator**” means a bank or other party duly authorised to operate as an account operator (No. *Kontofører*) with the CSD, and through which a Bondholder has opened a Securities Account in respect of its Bonds.

“**Accounting Principles**” means (a) from the First Issue Date up to and excluding the date of listing of the Initial Bonds on a Regulated Market, the generally accepted accounting principles, standards and practices in the jurisdiction of incorporation of the Issuer, and (b) from, and including, the date of listing of the Initial Bonds on a Regulated Market, the international financial reporting standards (IFRS) within the meaning of Regulation 1606/2002/EC (or as otherwise adopted or amended from time to time).

“**Adjusted Nominal Amount**” means the total aggregate Nominal Amount of the Bonds outstanding at the relevant time *less* the aggregate Nominal Amount of all Bonds owned by the Issuer, a Group Company or an Affiliate of the Issuer or a Group Company, irrespective of whether such Person is directly registered as owner of such Bonds.

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

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

“**Agency Agreement**” means the agreement entered into on or about the First Issue Date between the Issuer and the Agent, or any replacement agency agreement entered into after the First Issue Date between the Issuer and the Agent.

“**Agent**” means the Bondholders’ agent and security agent under these Terms and Conditions from time to time; initially Nordic Trustee & Agency AB (publ) (reg. no. 556882-1879).

“**Agreed Security Principles**” means the security principles set out in Schedule 3 (*Agreed Security Principles*).

“**Annual Report**” means the annual audited consolidated Financial Report of the Group.

“**Base Rate**” means three (3) month EURIBOR or any reference rate replacing EURIBOR in accordance with Clause 20 (*Replacement of the Base Rate*).

“**Bondholder**” means a person who is registered in the CSD as a holder of a Bond, subject to Clause 9 (*Right to act on behalf of a Bondholder*).

“**Bondholders’ Meeting**” means a meeting among the Bondholders held in accordance with Clause 18.2 (*Bondholders’ Meeting*).

“**Bonds**” means (i) a debt instrument, issued by the Issuer under these Terms and Conditions, including the Initial Bonds and any Subsequent Bonds and (ii) any overdue and unpaid principal which has been issued under a separate ISIN in accordance with the CSD Regulations from time to time.

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

“**Business Day Convention**” means the first following day that is a CSD Business Day unless that day falls in the next calendar month, in which case that date will be the first preceding day that is a CSD Business Day.

“**Call Option Amount**” means:

- (a) an amount equivalent to the sum of (i) 104.4585 per cent. of the Nominal Amount and (ii) the remaining interest payments to, but not including, the First Call Date, if the call option is exercised on or after the First Issue Date to, but not including, the First Call Date;
- (b) 104.4585 per cent. of the Nominal Amount, if the call option is exercised on or after the First Call Date to, but not including, the date falling forty-two (42) months after the First Issue Date;
- (c) 103.5668 per cent. of the Nominal Amount, if the call option is exercised on or after the date falling forty-two (42) months after the First Issue Date to, but not including, the date falling forty-eight (48) months after the First Issue Date;
- (d) 102.6751 per cent. of the Nominal Amount if the call option is exercised on or after the date falling forty-eight (48) months after the First Issue Date to, but not including, the date falling fifty-four (54) months after the First Issue Date;
- (e) 101.7834 per cent. of the Nominal Amount, if the call option is exercised on or after the date falling fifty-four (54) months after the First Issue Date to, but not including, the date falling sixty (60) months after the First Issue Date;
- (f) 100.8917 per cent. of the Nominal Amount, if the call option is exercised on or after the date falling sixty (60) months after the First Issue Date to, but not including, the date falling sixty-six (66) months after the First Issue Date; and
- (g) 100.5000 per cent. of the Nominal Amount, if the call option is exercised on or after the date falling sixty-six (66) months after the First Issue Date to, but not including, the Final Redemption Date.

For the purpose of calculating the remaining interest payments pursuant to paragraph (a) above it shall be assumed that the Interest Rate for the period from the relevant Record Date to the First Call Date will be equal to the Interest Rate in effect on the date on which notice of redemption is given to the Bondholders.

**“Cash and Cash Equivalents”** means cash and cash equivalents in accordance with the Accounting Principles, excluding any cash standing to credit on the Escrow Account.

**“Change of Control”** means the occurrence of an event or series of events whereby one or more Persons, not being the Ultimate Owners, acting in concert, acquire control over the Issuer and where **“control”** means (a) acquiring or controlling, directly or indirectly, more than 50.00 per cent of the voting shares of the Issuer, or (b) the right to, directly or indirectly, appoint or remove the whole or a majority of the directors of the board of directors of the Issuer.

**“Clean Down”** has the meaning set forth in Clause 16.6 (*Clean down*).

**“Compliance Certificate”** means a certificate substantially in the form set out in Schedule 1 (*Form of Compliance Certificate*), unless otherwise agreed between the Agent and the Issuer.

**“CSD”** means the Issuer’s central securities depository and registrar in respect of the Bonds from time to time, initially Verdipapirsentralen ASA (Euronext Securities Oslo) (reg. no. 985 140 421).

**“CSD Business Day”** means a day on which the relevant CSD settlement system is open and the Bond currency settlement system is open.

**“CSD Regulations”** means the CSD’s rules and regulations applicable to the Issuer, the Agent and the Bonds from time to time.

**“Debt Register”** means the debt register kept by the CSD in respect of the Bonds in which an owner of Bonds is directly registered or an owner’s holding of Bonds is registered in the name of a nominee.

**“Distribution Test”** has the meaning set forth in Clause 15.1.2 (*Distribution Test*).

**“EBITDA”** means, in respect of the Reference Period, the consolidated profit of the Group from ordinary activities according to the latest Financial Report (without double counting):

- (a) *before deducting* any amount of tax on profits, gains or income paid or payable by any Group Company;
- (b) *before deducting* any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments in respect of borrowings whether paid, payable or capitalised by any Group Company (calculated on a consolidated basis) in respect of that Reference Period;
- (c) *before taking into account* any extraordinary items and any non-recurring items which are not in line with the ordinary course of business of the Group (**“Exceptional Items”**), in an aggregate amount not exceeding 10.00 per cent. of EBITDA for the relevant Reference Period (prior to any adjustments for Exceptional Items);
- (d) *before taking into account* any Transaction Costs;

- (e) *not including* any accrued interest owing to any Group Company;
- (f) *before taking into account* any unrealised gains or losses on any derivative instrument (other than any derivative instrument which is accounted for on a hedge account basis);
- (g) *after adding back or deducting*, as the case may be, the amount of any loss or gain against book value arising on a disposal of any asset (other than in the ordinary course of trading) and any loss or gain arising from an upward or downward revaluation of any asset or liabilities;
- (h) *after deducting* the amount of any profit (or adding back the amount of any loss) of any Group Company which is attributable to minority interests;
- (i) *plus or minus* the Group's share of the profits or losses of entities which are not part of the Group; and
- (j) *after adding back* any amount attributable to the amortisation, depreciation or depletion of assets of members of the Group,

in each case without double-counting and provided that any leasing liability shall, for the purpose of determining EBITDA, be treated in accordance with the Accounting Principles as in force on the First Issue Date.

**“Escrow Account”** means a bank account opened by or on behalf of the Issuer into which the Net Proceeds from the Initial Bond Issue will be transferred and which has been pledged in favour of the Agent and the Bondholders (represented by the Agent) under the Escrow Account Pledge Agreement.

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

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

**“EURIBOR”** means:

- (a) the applicable percentage rate per annum displayed on the LSEG Benchmark screen EURIBOR01 (or through another system or website replacing it) as of or around 11.00 a.m. (Brussels time) on the Quotation Day for the offering of deposits in EUR and for a period comparable to the relevant Interest Period;
- (b) if no such rate as set out in paragraph (a) above is available for the relevant Interest Period, the rate calculated by the Paying Agent (rounded upwards to four decimal places) which results from interpolating on a linear basis between:
  - (i) the applicable screen rate for the longest period (for which that screen rate is available) which is less than the Interest Period; and
  - (ii) the applicable screen rate for the shortest period (for which that screen rate is available) which exceeds that Interest Period,

in each case as of or around 11 a.m. on the Quotation Day;

- (c) if no rate is available for the relevant Interest Period pursuant to paragraph (a) and/or (b) above, the arithmetic mean of the rates (rounded upwards to four decimal places), as supplied to the Paying Agent at its request quoted by prime banks reasonably selected by the Paying Agent, as the rate at which the relevant bank believes one prime bank is quoting to another prime bank for deposits of EUR 10,000,000 for the relevant period; or
- (d) if no rate is available for the relevant Interest Period pursuant to paragraph (a) and/or (b) above and no quotation is available pursuant to paragraph (c) above, the Interest Rate which according to the reasonable assessment of the Paying Agent best reflects the Interest Rate for deposits in EUR offered for the relevant period,

and if any such rate is below zero (0), EURIBOR will be deemed to be zero (0).

**“Event of Default”** means an event or circumstance specified as such in Clause 17 (*Termination of the Bonds*) except for Clause 17.9 (*Termination*) and Clause 17.10.

**“Final Redemption Date”** means 6 July 2032.

**“Finance Documents”** means these Terms and Conditions, the Escrow Account Pledge Agreement, the Transaction Security Documents, the Intercreditor Agreement (if any), the Agency Agreement, the Guarantee and Adherence Agreement and any other document designated by the Issuer and the Agent as a Finance Document.

**“Finance Lease”** means any lease or hire purchase or instalment contract, a liability under which would, in accordance with the Accounting Principles, applicable to the Issuer on the First Issue Date, be treated as a balance sheet liability and for the avoidance of doubt, any leases treated as operating leases under the Accounting Principles as applicable to the Issuer on the First Issue Date shall not, regardless of any subsequent changes or amendments of the Accounting Principles, be considered as a Finance Lease.

**“Financial Indebtedness”** means any indebtedness in respect of:

- (a) monies borrowed or raised, including Market Loans;
- (b) the amount of any liability in respect of any Finance Lease;
- (c) receivables sold or discounted (other than on a non-recourse basis);
- (d) any amount raised under any other transaction (including forward sale or purchase arrangements) having the commercial effect of a borrowing (however, any earn-out liability shall only constitute Financial Indebtedness if it has been finally determined and any convertible note classified as equity in accordance with the Accounting Principles shall not constitute Financial Indebtedness);
- (e) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the mark to market value shall be taken into account, provided that if any actual amount is due as a result of a termination or a close-out, such amount shall be used instead);

- (f) (without double counting) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (g) (without double counting) any guarantee or other assurance against financial loss in respect of a type referred to in paragraphs (a) to (f) above.

**“Financial Report”** means the annual audited consolidated financial reports of the Group or the quarterly interim unaudited consolidated reports of the Group, which shall be prepared and made available according to paragraph (a) or (b) of Clause 14.1 (*Financial Reports*) (as applicable), in each case prepared in accordance with the Accounting Principles.

**“First Call Date”** means the date falling thirty-six (36) months after the First Issue Date or, to the extent such day is not a CSD Business Day, the CSD Business Day following from an application of the Business Day Convention.

**“First Issue Date”** means 6 July 2026.

**“Force Majeure Event”** has the meaning set forth in Clause 27.1.

**“GBP”** means Pound Sterling.

**“Group”** means the Parent, the Issuer and each of their direct and indirect Subsidiaries from time to time (each a **“Group Company”**).

**“Guarantee”** means the guarantees provided by the Guarantors under the Guarantee and Adherence Agreement.

**“Guarantee and Adherence Agreement”** means the guarantee and adherence agreement pursuant to which the Guarantors shall, amongst other things, (i) guarantee the punctual performance of all obligations and liabilities under the Finance Documents (and after the entry into of the Intercreditor Agreement, any Super Senior Debt) and (ii) undertake to adhere to certain undertakings under these Terms and Conditions.

**“Guarantors”** means the Initial Guarantors and any Group Company which is nominated as a Material Group Company in the Compliance Certificate delivered together with each Annual Report, subject to the resignation of any Guarantors in accordance with the Finance Documents.

**“Guarantor Coverage Test”** has the meaning set forth in paragraph (c) of Clause 14.2.2.

**“Hedging Obligations”** has the meaning ascribed to that term in Schedule 2 (*Intercreditor principles*).

**“Incurrence Test”** has the meaning set forth in Clause 15.1.1 (*Incurrence Test*).

**“Initial Bond”** means any Bond issued on the First Issue Date.

**“Initial Bond Issue”** has the meaning set forth in Clause 3.3.

**“Initial Guarantors”** means the Parent, Staycity Limited and Staycity UK Ltd.

**“Intercreditor Agreement”** means any intercreditor agreement which shall be entered into upon request by the Issuer after the First Issue Date, based on the terms set out in the intercreditor principles attached as Schedule 2 (*Intercreditor principles*), between the Issuer,

any provider of Super Senior Debt, the Agent and any creditors under Subordinated Loans, *inter alia*, super senior ranking of the Super Senior Debt and complete subordination of the Subordinated Loans, each in relation to the Bonds.

**“Interest”** means the interest on the Bonds calculated in accordance with Clauses 11.1 to 11.4.

**“Interest Payment Dates”** means 6 January, 6 April, 6 July and 6 October each year (with the first Interest Payment Date being 6 October 2026 and the last Interest Payment Date being the Final Redemption Date or any applicable final redemption date prior thereto), or to the extent such day is not a CSD Business Day, the CSD Business Day following from an application of the Business Day Convention.

**“Interest Period”** means (i) in respect of the first Interest Period, the period from, and including, the First Issue Date to, but excluding, the first Interest Payment Date, and (ii) in respect of subsequent Interest Periods, the period from, and including, an Interest Payment Date to, but excluding, the next succeeding Interest Payment Date (or a shorter period if relevant). Any Subsequent Bonds will carry interest at the Interest Rate from, and including, the Interest Payment Date falling immediately prior to their issuance to, but excluding, the next succeeding Interest Payment Date (or a shorter period if relevant).

**“Interest Rate”** means the Base Rate plus 6.50 per cent. *per annum*, as adjusted by any application of Clause 20 (*Replacement of the Base Rate*).

**“Issue Date”** means the First Issue Date or any date on which Subsequent Bonds are issued.

**“Issuer”** means Cavebreak Designated Activity Company (reg. no. 768741), a designated activity company incorporated in Ireland.

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

**“LSEG Benchmark”** means the London Stock Exchange Group, provider of financial information and interest rate benchmarks formerly provided under the brand Refinitiv and Thomson Reuters.

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

**“Material Adverse Effect”** means a material adverse effect on:

- (a) the business, financial condition or operations of the Group taken as a whole;
- (b) the Group’s ability to perform and comply with its obligations under the Finance Documents; or
- (c) the validity or enforceability of the Finance Documents.

**“Material Group Company”** means:

- (a) the Parent and the Issuer;
- (b) each Guarantor;

- (c) any other Group Company with earnings before interest, tax, depreciation and amortisation (calculated on the same basis as EBITDA) representing 10.00 per cent. or more of EBITDA according to the latest Financial Report; and
- (d) any additional Group Company which is nominated by the Issuer as a Material Group Company in accordance with Clause 16.10 (*Additional Security and Guarantors*).

**“Material Intragroup Loan”** means any intra-group loan provided by the Issuer or a Material Group Company to any other Group Company, where (i) the term is at least twelve (12) months and (ii) the principal amount, when aggregated with all other intra-group loans with a term of at least twelve (12) months from the same creditor to the same debtor, amounts to or exceeds EUR 5,000,000 (or its equivalent in any other currency or currencies).

**“Net Interest Bearing Debt”** means the consolidated interest bearing Financial Indebtedness of the Group:

- (a) *excluding* guarantees;
- (b) *excluding* any Subordinated Loans;
- (c) *excluding* any interest-bearing Financial Indebtedness borrowed from any Group Company; and
- (d) *less* Cash and Cash Equivalents of the Group.

**“Net Proceeds”** means the proceeds from the Initial Bond Issue or any Subsequent Bond Issue, after deduction has been made for any Transaction Costs.

**“OakNorth Facilities Agreement”** means the facilities agreement dated 31 July 2020 between (1) Staycity Investments Limited (as borrower), (2) Staycity Investments Holdings Limited (as parent), (3) OakNorth Bank plc (as lender), (4) the agent, (5) OakNorth Bank plc (as security agent), (6) OakNorth Bank plc (as security trustee) and (7) OakNorth Bank plc (as arranger) as amended pursuant to an amendment letter dated 9 November 2020, as further amended and restated pursuant to an acknowledgement letter dated 5 July 2021, as further amended and restated pursuant to amendment and restatement deeds dated 19 July 2022 and 18 December 2024.

**“Nominal Amount”** means the Initial Nominal Amount *less* the amount of any amortisations made in accordance with these Terms and Conditions.

**“Parent”** means Staycity Investments Limited (reg. no. 558376), a limited liability company incorporated in Ireland.

**“Paying Agent”** means the legal entity appointed by the Issuer to act as its paying agent with respect to the Bonds in the CSD from time to time, initially Nordic Trustee Services AS, with business registration number 916 482 574, and registered address Kronprinsesse Märthas plass 1, N-0160 Oslo, Norway.

**“Permitted Debt”** means any Financial Indebtedness:

- (a) incurred under the Finance Documents (save for any Subsequent Bonds);

- (b) incurred by the Issuer as a result of a Subsequent Bond Issue permitted pursuant to these Terms and Conditions;
- (c) incurred under any credit facility agreement, including the OakNorth Facilities Agreement or any revolving credit facility agreement, for general corporate purposes of the Group, which may rank super senior to the Bonds under the Intercreditor Agreement (if any), in an aggregate maximum utilised principal amount not exceeding the higher of (i) EUR 50,000,000 and (ii) 100.00 per cent. of EBITDA of the Group (or its equivalent in any other currency or currencies) (the “**Super Senior RCF**”);
- (d) incurred under any Advance Purchase Agreements;
- (e) arising under any Hedging Obligations or other derivative transaction (a “**Derivative Transaction**”) entered into by a Group Company in connection with protection against or benefit from fluctuation in any rate or price where such exposure arises in the ordinary course of business, including foreign exchange, interest or commodities, or in respect of payments to be made under the Senior Finance Documents (excluding for the avoidance of doubt any derivative transaction which in itself is entered into for investment or speculative purposes);
- (f) incurred under any Subordinated Loans;
- (g) taken up from a Group Company;
- (h) incurred under any counter indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability incurred in the ordinary course of the Group’s business or constituting Permitted Debt;
- (i) incurred pursuant to any Finance Leases entered into in the ordinary course of the relevant Group Company’s business;
- (j) related to any agreements under which a Group Company leases office space (Sw. *kontorshyresavtal*) or other premises provided that such Financial Indebtedness is incurred in the ordinary course of such Group Company’s business;
- (k) incurred as a result of any Group Company acquiring another entity which holds Financial Indebtedness, provided that (i) the Incurrence Test is met (calculated pro forma including the acquired entity’s indebtedness) and (ii) such indebtedness is refinanced with Permitted Debt no later than ninety (90) days from completion of the acquisition;
- (l) of the Group under any guarantee (i) issued by a Group Company for the obligations of any other Group Company in the ordinary course of business, (ii) arising for the purposes of securing the obligations to the CSD and (iii) given by a Group Company in connection with a real estate project for the development of an aparthotel/hotel pursuant to the Group development strategy;
- (m) of the Group under any pension and tax liabilities incurred in the ordinary course of business;

- (n) incurred by the Issuer for the purpose of refinancing the Bonds provided that the net proceeds of such Financial Indebtedness shall be kept on an escrow account until such refinancing shall be made (taking into account the rules and regulations of the CSD); and
- (o) any other Financial Indebtedness not otherwise permitted by paragraphs (a) to (n) above, in an aggregate principal amount at any time not exceeding the higher of (i) EUR 4,000,000 and (ii) 10.00 per cent. of EBITDA (or its equivalent in any other currency or currencies).

**“Permitted Security”** means any Security:

- (a) provided in respect of the Finance Documents and, after the entry into of the Intercreditor Agreement, the Senior Finance Documents (including the Super Senior Debt);
- (b) until the Disbursement Date, provided in respect of the Super Senior RCF;
- (c) arising under any netting or set off arrangements under financial derivatives transactions or bank account arrangements, including any group cash pool arrangements;
- (d) created for the purposes of securing obligations to the CSD;
- (e) arising by operation of law or in the ordinary course of business of the Group (including collateral or retention of title arrangements in connection with Advance Purchase Agreements but, for the avoidance of doubt, not including guarantees or security in respect of any monies borrowed or raised);
- (f) provided pursuant to Clause 16.7 (*Loans out*);
- (g) provided pursuant to paragraphs (i), (k) and (m) of the definition of Permitted Debt, consisting of security customary for such debt and provided it does not also constitute Transaction Security and in relation to (k) provided that such security is released within 90 days from the acquisition;
- (h) provided in relation to any Derivative Transaction but only consisting of security customary for such Derivative Transaction and not consisting of security over any asset which constitutes Transaction Security;
- (i) (i) provided in the form of a pledge over an escrow account to which the proceeds from a refinancing of the Bonds are to be transferred or (ii) agreed to be provided for the benefit of the financing providers in relation to a refinancing of the Bonds in full provided always that any perfection requirements in relation thereto are satisfied after full repayment of the Bonds; and
- (j) not otherwise permitted under paragraphs (a) to (i) above, in an aggregate maximum amount not exceeding the higher of (i) EUR 4,000,000 and (ii) 10.00 per cent. of EBITDA (or its equivalent in any other currency or currencies).

**“Person”** means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organisation, government, or

any agency or political subdivision thereof, or any other entity, whether or not having a separate legal personality.

**“Quotation Day”** means (i) in relation to an Interest Period for which an Interest Rate is to be determined, two (2) Business Days before the immediately preceding Interest Payment Date (or, in respect of the first Interest Period, two (2) Business Days before the First Issue Date), or (ii) in relation to any other period for which an Interest Rate is to be determined, two (2) Business Days before the first day of that period.

**“Record Date”** means the date on which a Bondholder’s ownership of Bonds shall be recorded in the CSD as follows:

- (a) in relation to payments pursuant to these Terms and Conditions, the date designated as the Record Date in accordance with the rules of the CSD from time to time; or
- (b) for the purpose of casting a vote with regard to Clause 18 (*Decisions by Bondholders*), the date falling on the immediate preceding CSD Business Day to the date of that Bondholders’ decision being made or, with respect to a Written Procedure, the date specified in the relevant communication, or another relevant date as accepted by the Agent in accordance with these Terms and Conditions.

**“Redemption Date”** means the date on which the relevant Bonds are to be redeemed or repurchased in accordance with Clause 12 (*Redemption and repurchase of the Bonds*).

**“Reference Date”** means 31 March, 30 June, 30 September and 31 December each year.

**“Reference Period”** means each period of twelve (12) consecutive calendar months ending on a Reference Date.

**“Regulated Market”** means any regulated market (as defined in Directive 2014/65/EU on markets in financial instruments (MiFID II), as amended).

**“Secured Obligations”** means:

- (a) if the Intercreditor Agreement has not been entered into, all present and future actual and contingent obligations and liabilities of the Issuer and each of the Guarantors to the Secured Parties under the Finance Documents, together with all accrued interest, costs, fees and expenses incurred by any Secured Party in connection with the protection, preservation or enforcement of its respective rights under the Finance Documents (or any other document evidencing such liabilities); or
- (b) if the Intercreditor Agreement has been entered into, the meaning ascribed to that term in the Intercreditor Agreement.

**“Secured Parties”** means:

- (a) if the Intercreditor Agreement has not been entered into, the Bondholders and the Agent; or
- (b) if the Intercreditor Agreement has been entered into, the meaning ascribed to that term in the Intercreditor Agreement.

**“Securities Account”** means the account for dematerialised securities maintained by the CSD pursuant to the relevant securities registration legislation in which (i) an owner of such securities is directly registered or (ii) an owner’s holding of securities is registered in the name of a nominee.

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

**“Senior Finance Documents”** has the meaning ascribed to it in Schedule 2 (*Intercreditor principles*).

**“Subordinated Loans”** means all present and future moneys, debts and liabilities due, owing or incurred from time to time by the Issuer as debtor, if such loan:

- (a) is subordinated to the obligations under the Finance Documents pursuant to the Intercreditor Agreement or another subordination agreement entered into between the Issuer, the relevant creditor and the Agent;
- (b) according to its terms has a final redemption date or, when applicable, early redemption dates or instalment dates (including permitted repurchases or buy-backs) which occur after the Final Redemption Date; and
- (c) according to its terms yields only payment-in-kind interest and/or cash interest that is payable after the Final Redemption Date.

**“Subsequent Bond”** has the meaning set forth in Clause 3.7.

**“Subsequent Bond Issue”** has the meaning set forth in Clause 3.7.

**“Subsidiary”** means, in relation to a Person, any legal entity (whether incorporated or not), in respect of which that Person, directly or indirectly (i) owns shares or ownership rights representing more than fifty (50.00) per cent. of the total number of votes held by the owners, (ii) otherwise controls more than fifty (50.00) per cent. of the total number of votes held by the owners, (iii) has the power to appoint and remove all, or the majority of, the members of the board of directors or other governing body or (iv) exercises control as determined in accordance with the Accounting Principles.

**“Super Senior Debt”** has the meaning ascribed to that term in the Schedule 2 (*Intercreditor principles*).

**“Transaction Costs”** means all fees, costs and expenses incurred by the Issuer or any other Group Company directly or indirectly in connection with (i) the Initial Bond Issue and any Subsequent Bond Issue, (ii) the admission to trading of the Bonds, (iii) the establishment of any Super Senior RCF, and (iv) repayment of any Financial Indebtedness on or about the Disbursement Date.

**“Transaction Security”** means the Security provided for the Secured Obligations pursuant to the Transaction Security Documents, initially being:

- (a) security in respect of all the shares in the Parent and the Issuer (the **“Day 1 Share Security”**);

- (b) security in respect of all the shares owned by a Group Company in each Material Group Company;
- (c) security in respect of any Subordinated Loan;
- (d) security in respect of loans granted pursuant to paragraph (c) of Clause 16.7 (*Loans out*);
- (e) security in respect of all present and future Material Intragroup Loans; and
- (f) security in respect of receivables and bank accounts of Material Group Companies and a floating charge granted by each Material Group Company.

**“Transaction Security Documents”** means the security documents pursuant to which the Transaction Security is created.

**“Ultimate Owner”** means (a) Tom Walsh, (b) Frank and Margaret Walsh, (c) Pamela Walsh and Brett Stephenson, (d) Frank Walsh, (e) Gerard Walsh, (f) Martina Walsh, (g) Darinka Kramberger, (h) Paul Dowling, (i) PJA Dempsey, (j) Karl Georg Echter, (k) James Edward George, (l) John Pollard Foundation, (m) Stephen Vernon, (n) Patrick Dempsey and Staycity Nominees Limited (reg. no. 475073).

**“Written Procedure”** means the written or electronic procedure for decision making among the Bondholders in accordance with Clause 18.3 (*Written Procedure*).

## 1.2 **Construction**

1.2.1 Unless a contrary indication appears, any reference in these Terms and Conditions to:

- (a) **“assets”** includes present and future properties, revenues and rights of every description;
- (b) any agreement or instrument is a reference to that agreement or instrument as supplemented, amended, novated, extended, restated or replaced from time to time;
- (c) a **“regulation”** includes any law, regulation, rule or official directive (whether or not having the force of law but, if not having the force of law, which is generally adhered to) of any governmental, intergovernmental or supranational body, agency or department;
- (d) a provision of regulation is a reference to that provision as amended or re-enacted; and
- (e) a time of day is a reference to Stockholm time.

1.2.2 An Event of Default is continuing if it has not been remedied or waived.

1.2.3 When ascertaining whether a limit or threshold specified in EUR or GBP has been attained or broken, an amount in another currency shall be counted on the basis of the rate of exchange for such currency against EUR or GBP, respectively, for the previous Business Day as reported by Bloomberg on its website. If no such rate is available, the most recently published rate shall be used instead.

1.2.4 A notice shall be deemed to be sent by way of press release if it is made available to the public within the European Economic Area promptly and in a non-discriminatory manner.

- 1.2.5 No delay or omission of the Agent or of any Bondholder to exercise any right or remedy under the Finance Documents shall impair or operate as a waiver of any such right or remedy.
- 1.2.6 The privacy notice and any other information contained in this document before the table of contents section do not form part of these Terms and Conditions and may be updated without the consent of the Bondholders and the Agent.
- 1.2.7 These Terms and Conditions are entered into subject to the Intercreditor Agreement (if entered into). In case of any discrepancies between these Terms and Conditions and the Intercreditor Agreement, the Intercreditor Agreement shall prevail.

## **2. STATUS OF THE BONDS**

Subject to the terms of the Intercreditor Agreement (if any), the Bonds constitute direct, general, unconditional, unsubordinated and secured obligations of the Issuer and shall at all times rank (i) without any preference among them and (ii) at least *pari passu* with all direct, general, unconditional, unsubordinated and unsecured obligations of the Issuer, except (A) those obligations which are mandatorily preferred by law and (B), the super senior ranking of the Super Senior Debt in accordance with the Intercreditor Agreement.

## **3. THE AMOUNT OF THE BONDS AND UNDERTAKING TO MAKE PAYMENTS**

- 3.1 The Bonds are denominated in EUR and each Bond is constituted by these Terms and Conditions. The Issuer undertakes to repay the Bonds, to pay Interest and to otherwise act in accordance and comply with these Terms and Conditions.
- 3.2 By subscribing for Bonds, each initial Bondholder agrees that the Bonds shall benefit from and be subject to the Finance Documents and by acquiring Bonds, each subsequent Bondholder confirms such agreement.
- 3.3 The initial nominal amount of each Bond is EUR 100,000 or full multiples thereof (the “**Initial Nominal Amount**”). The total aggregate nominal amount of the Initial Bonds is EUR 100,000,000 (the “**Initial Bond Issue**”).
- 3.4 All Initial Bonds are issued on a fully paid basis at an issue price of 100.00 per cent. of the Initial Nominal Amount. The price of Subsequent Bonds may be set at the Nominal Amount, at a discount or at a higher price than the Nominal Amount.
- 3.5 The minimum permissible investment in connection with the Initial Bond Issue is EUR 100,000.
- 3.6 The ISIN for the Bonds is NO0013755520.
- 3.7 The Issuer may at one or more occasions after the First Issue Date issue additional Bonds (each a “**Subsequent Bond**”) under these Terms and Conditions (each such issue a “**Subsequent Bond Issue**”) provided that the aggregate amount of Bonds in issue (i.e., the Initial Bonds aggregated with any Subsequent Bonds) does not exceed EUR 200,000,000.

## **4. USE OF PROCEEDS**

- 4.1 The purpose of the Initial Bond Issue is to:
- (a) finance general corporate purposes of the Group (including capital expenditures and acquisitions);
  - (b) refinance the Super Senior RCF; and
  - (c) finance Transaction Costs.
- 4.2 The Net Proceeds from any Subsequent Bond Issue shall be used to finance general corporate purposes (including capital expenditures and acquisitions).

## **5. ESCROW OF PROCEEDS**

- 5.1 The Net Proceeds from the Initial Bond Issue shall be deposited on the Escrow Account for application in accordance with Clause 4 (*Use of proceeds*).
- 5.2 Any Bonds in the Initial Bond Issue subscribed by the Group may not be disposed of until the date of the first disbursement from the Escrow Account. In the event of a Mandatory Redemption pursuant to Clause 5.3, the Group shall prior to such redemption cancel any Bonds held by the Group.
- 5.3 If the conditions precedent for disbursement, referred to in Clause 6.3 (*Conditions Precedent for Disbursement*) have not been fulfilled within sixty (60) Business Days from the First Issue Date, the Issuer shall redeem all Bonds at a price equal to one hundred and one (101.00) per cent. of the Nominal Amount together with any accrued but unpaid interest. The funds held on the Escrow Account shall in such case be applied towards redemption of the Bonds on behalf of the Issuer (a “**Mandatory Redemption**”). Any shortfall shall be covered by the Issuer.
- 5.4 A Mandatory Redemption shall be made by the Issuer giving notice to the Bondholders and the Agent promptly following the date when the Mandatory Redemption is triggered pursuant to Clause 5.3 above. Any such notice shall state the Redemption Date and the relevant Record Date.

## **6. CONDITIONS PRECEDENT AND SUBSEQUENT**

### **6.1 Conditions Precedent to the First Issue Date**

- 6.1.1 The Issuer shall provide to the Agent, no later than 11.00 a.m. two (2) Business Days prior to the First Issue Date (or such later time as agreed by the Agent), the following documentation and evidence:
- (a) copies of constitutional documents and corporate resolutions (approving the relevant Finance Documents and authorising a signatory/-ies to execute the Finance Documents) for the Issuer;
  - (b) a copy of the duly executed Terms and Conditions (including an agreed form Compliance Certificate);

- (c) a copy of the duly executed Agency Agreement; and
  - (d) a copy of the duly executed Escrow Account Pledge Agreement and evidence in the form of a duly signed notice and acknowledgement that the security purported to be created under the Escrow Account Pledge Agreement has been duly perfected.
- 6.1.2 The Agent shall confirm to the Paying Agent when it is satisfied (acting reasonably) that the conditions in Clause 6.1.1 have been received (or amended or waived in accordance with Clause 19 (*Amendments and waivers*)). The First Issue Date shall not occur (i) unless the Agent makes such confirmation to the Paying Agent no later than 11.00 a.m. one (1) Business Day prior to the First Issue Date (or later, if the Paying Agent so agrees) or (ii) if the Paying Agent and the Issuer agree to postpone the First Issue Date.
- 6.1.3 Following receipt by the Paying Agent of the confirmation in accordance with Clause 6.1.2 the Paying Agent shall settle the issuance of the Initial Bonds and pay the Net Proceeds of the Initial Bond Issue to the Escrow Account on the First Issue Date.
- 6.2 **Conditions Precedent for a Subsequent Bond Issue**
- 6.2.1 The Issuer shall provide to the Agent, no later than 11.00 a.m. two (2) Business Days prior to the relevant Issue Date (or such later time as agreed by the Agent), the following documentation:
  - (a) copies of constitutional documents and corporate resolutions (approving the Subsequent Bond Issue and resolving to execute and perform any document necessary in connection therewith) for the Issuer;
  - (b) evidence that the conditions precedent set forth in Clause 6.3 (*Conditions Precedent for Disbursement*) have been received; and
  - (c) a Compliance Certificate from the Issuer confirming that (i) the Incurrence Test (calculated *pro forma* including the Subsequent Bond Issue) is met and (ii) no Event of Default is continuing or would result from the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing or from the Subsequent Bond Issue.
- 6.2.2 The Agent shall confirm to the Paying Agent when it is satisfied (acting reasonably) that the conditions in Clause 6.2.1 have been received (or amended or waived in accordance with Clause 19 (*Amendments and waivers*)). The relevant Issue Date shall not occur (i) unless the Agent makes such confirmation to the Paying Agent no later than 11.00 a.m. one (1) Business Day prior to the relevant Issue Date (or later, if the Paying Agent so agrees) or (ii) if the Paying Agent and the Issuer agree to postpone the relevant Issue Date.
- 6.2.3 Following receipt by the Paying Agent of the confirmations in accordance with Clause 6.2.2 the Paying Agent shall settle the issuance of the Subsequent Bonds and pay the Net Proceeds of the Subsequent Bond Issue in accordance with the Issuer's instructions.

### 6.3 **Conditions Precedent for Disbursement**

6.3.1 The Agent's approval of the disbursement of any Net Proceeds from the Escrow Account (such date being the "**Disbursement Date**") is subject to the Agent being satisfied it has received the following documents and evidence:

- (a) copies of constitutional documents and corporate resolutions (approving the relevant Finance Documents and authorising a signatory/-ies to execute such Finance Documents) for each party (for the avoidance of doubt, being a Group Company or the Parent) other than the Agent being a party to the Finance Documents, together constituting evidence that the relevant Finance Documents have been duly executed;
- (b) evidence by way of a duly signed release letter that any existing security and guarantees in favour of any Super Senior RCF existing on the Disbursement Date will be released and discharged immediately upon disbursement from the Escrow Account or be extended as Transaction Security under the Intercreditor Agreement;
- (c) evidence that the following Finance Documents have been, or will immediately following disbursement from the Escrow Account, be duly executed:
  - (i) security agreement in respect of the Day 1 Share Security; and
  - (ii) security agreement in respect of any Subordinated Loan,in each case, subject to the Agreed Security Principles, together with evidence that the Transaction Security purported to be created under such Transaction Security Documents has been or will be perfected immediately upon disbursement from the Escrow Account; and
- (d) legal opinion(s) on the capacity and due execution of each party to a Finance Document not incorporated in Sweden or Norway and the validity and enforceability of the relevant Finance Documents not governed by Swedish or Norwegian law, as well as the role of the security agent in such jurisdiction, in each case issued by a reputable law firm (if applicable), in form and substance satisfactory to the Agent.

6.3.2 The Agent shall promptly confirm to the Issuer and the Paying Agent when it is satisfied that the conditions referred to in Clause 6.3.1 have been received (or amended or waived in accordance with Clause 19 (*Amendments and waivers*)).

6.3.3 When the conditions referred to in Clause 6.3.1 have been received (or amended or waived in accordance with Clause 19 (*Amendments and waivers*)), the Agent shall without delay instruct the account bank to transfer the Net Proceeds from the Escrow Account in accordance with the Issuer's instructions and the terms of the Escrow Account Pledge Agreement.

### 6.4 **Conditions subsequent**

6.4.1 The Issuer shall ensure that the following documentation and evidence is received by the Agent no later than five (5) Business Days from the Disbursement Date:

- (a) copies of constitutional documents and corporate resolutions (approving the relevant Finance Documents and authorising a signatory/-ies to execute such Finance Documents) for each party (for the avoidance of doubt, being a Group Company) to

the Finance Documents, together constituting evidence that the relevant Finance Documents have been duly executed;

- (b) evidence that the following Finance Documents have been duly executed:
  - (i) security agreements in respect of all the shares owned by a Group Company in each Material Group Company;
  - (ii) security agreements in respect of all present and future Material Intragroup Loans; and
  - (iii) security in respect of receivables and bank accounts of Material Group Companies and a floating charge granted by each Material Group Company,together with evidence that the Transaction Security purported to be created under such Transaction Security Documents has been or will be perfected in accordance with the terms of such Transaction Security Documents;
- (c) a copy of the Guarantee and Adherence Agreement duly executed by the Issuer and the Initial Guarantors and evidence that each Initial Guarantor has acceded to the Intercreditor Agreement (if any) as an ICA Group Company; and
- (d) legal opinions on the capacity and due execution of each party to a Finance Document not incorporated in Sweden or Norway and the validity and enforceability of the relevant Finance Documents not governed by Swedish or Norwegian law, as well as the role of the security agent in such jurisdiction, in each case issued by a reputable law firm (in form and substance satisfactory to the Agent).

#### **6.5 No responsibility for documentation**

The Agent may assume that the documentation and evidence delivered to it is accurate, legally valid, enforceable, correct, true and complete unless it has actual knowledge to the contrary, and the Agent does not have to verify or assess the contents of any such documentation. The conditions precedent or conditions subsequent are not reviewed by the Agent from a legal or commercial perspective of the Bondholders.

### **7. THE BONDS AND TRANSFERABILITY**

- 7.1 Each Bondholder is bound by these Terms and Conditions without there being any further actions required to be taken or formalities to be complied with.
- 7.2 The Bonds are freely transferable. All Bond transfers are subject to these Terms and Conditions and these Terms and Conditions are automatically applicable in relation to all Bond transferees upon completed transfer.
- 7.3 Upon a transfer of Bonds, any rights and obligations under the Finance Documents relating to such Bonds are automatically transferred to the transferee.
- 7.4 The Issuer shall issue any necessary power of attorney to such persons employed by the Agent, as notified by the Agent, in order for such individuals to independently obtain information directly from the Debt Register. The Issuer may not revoke any such power of attorney unless directed by the Agent or unless consent thereto is given by the Bondholders.

- 7.5 No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Bonds or the possession, circulation or distribution of any document or other material relating to the Issuer or the Bonds in any jurisdiction other than Sweden, where action for that purpose is required. Each Bondholder must inform itself about, and observe, any applicable restrictions to the transfer of material relating to the Issuer or the Bonds, due to, *e.g.*, its nationality, its residency, its registered address or its place(s) of business. Each Bondholder must ensure compliance with such restrictions at its own cost and expense.
- 7.6 For the avoidance of doubt and notwithstanding the above, a Bondholder which allegedly has purchased Bonds in contradiction to mandatory restrictions applicable may nevertheless utilise its voting rights under these Terms and Conditions and shall be entitled to exercise its full rights as a Bondholder hereunder in each case until such allegations have been resolved.

## **8. BONDS IN BOOK-ENTRY FORM**

- 8.1 The Bonds will be registered for the Bondholders on their respective Securities Accounts and no physical Bonds will be issued and the right, title and interest of any Bondholder, assignee and participant and its successors and assigns in and to such obligations shall be transferable only through the CSD. Accordingly, the Bonds will be registered in dematerialised form in the CSD according to the relevant securities registration legislation and the CSD Regulations. Registration requests relating to the Bonds shall be directed to the Paying Agent or an Account Operator. The Debt Register shall constitute conclusive evidence of the persons who are Bondholders and their holdings of Bonds at the relevant point of time.
- 8.2 Subject to the CSD Regulations, the Issuer and the Agent shall at all times be entitled to obtain information from the Debt Register.
- 8.3 Subject to the CSD Regulations, for the purpose of carrying out any administrative procedure that arises out of the Finance Documents, the Paying Agent shall be entitled to obtain information from the Debt Register.
- 8.4 The Issuer (and the Agent when permitted under the CSD Regulations) may use the information referred to in Clause 8.2 only for the purposes of carrying out their duties and exercising their rights in accordance with the Finance Documents and shall not disclose such information to any Bondholder or third party unless necessary for such purposes.
- 8.5 The Issuer will at all times ensure that the registration of the Bonds in the CSD is correct and shall immediately upon any amendment or variation of these Terms and Conditions give notice to the CSD of any such amendment or variation.

## **9. RIGHT TO ACT ON BEHALF OF A BONDHOLDER**

- 9.1 If a beneficial owner of a Bond not being registered as a Bondholder wishes to exercise any rights under the Finance Documents, it must obtain proof of ownership of the Bonds, acceptable to the Agent.
- 9.2 A Bondholder (whether registered as such or proven to the Agent's satisfaction to be the beneficial owner of the Bond as set out in Clause 9.1 above) may issue one or more powers of

attorney to third parties to represent it in relation to some or all of the Bonds held or beneficially owned by such Bondholder. Any such representative may act independently under the Finance Documents in relation to the Bonds for which such representative is entitled to represent the Bondholder and may further delegate its right to represent the Bondholder by way of a further power of attorney.

- 9.3 The Agent shall only have to examine the face of a power of attorney or other similar evidence of authorisation that has been provided to it pursuant to Clause 9.2 and may assume that such document has been duly authorised, is valid, has not been revoked or superseded and that it is in full force and effect, unless otherwise is apparent from its face or the Agent has actual knowledge to the contrary.
- 9.4 These Terms and Conditions shall not affect the relationship between a Bondholder who is the nominee (Sw. *förvaltare*) with respect to a Bond and the owner of such Bond, and it is the responsibility of such nominee to observe and comply with any restrictions that may apply to it in this capacity.

## **10. PAYMENTS IN RESPECT OF THE BONDS**

- 10.1 The Issuer will unconditionally make available to or to the order of the Agent and/or the Paying Agent all amounts due on the relevant payment date pursuant to the terms of these Terms and Conditions at least two (2) Business Days prior to the relevant payment date (or at such other time as may be required by CSD regulations, in which case the Agent and/or the Paying Agent will notify the Issuer promptly upon becoming aware of such requirement) and to such accounts as specified by the Agent and/or the Paying Agent in advance of the relevant payment date or when other payments are due and payable pursuant to these Terms and Conditions.
- 10.2 All payments to the Bondholders in relation to the Bonds shall be made to each Bondholder registered as such in the CSD at the relevant Record Date, by, if no specific order is made by the Agent, crediting the relevant amount to the bank account nominated by such Bondholder in connection with its securities account in the CSD.
- 10.3 Payment constituting good discharge of the Issuer's payment obligations to the Bondholders under the Finance Documents will be deemed to have been made to each Bondholder once the amount has been credited to the bank holding the bank account nominated by the Bondholder in connection with its Securities Account in the CSD. If the paying bank and the receiving bank are the same, payment shall be deemed to have been made once the amount has been credited to the bank account nominated by the Bondholder in question.
- 10.4 If any relevant payment date to the Bondholders pursuant to the Finance Documents falls on a day which is not a CSD Business Day, the payment shall be made on the CSD Business Day following from an application of the Business Day Convention.
- 10.5 If, due to any obstacle for the CSD, the Issuer cannot make a payment or repayment, such payment or repayment may be postponed until the obstacle has been removed. Interest shall accrue in accordance with Clause 11.3 during such postponement.
- 10.6 If payment or repayment is made in accordance with this Clause 10, the Issuer and the CSD shall be deemed to have fulfilled their obligation to pay, irrespective of whether such payment

was made to a Person not entitled to receive such amount, unless the Issuer or the CSD (as applicable) was aware that the payment was being made to a Person not entitled to receive such amount.

- 10.7 Any specific payment instructions, including foreign exchange bank account details, to be connected to the Bondholder's account in the CSD must be provided by the relevant Bondholder to the Paying Agent (either directly or through its Account Operator in the CSD) within five (5) CSD Business Days prior to a payment date. Depending on any currency exchange settlement agreements between each Bondholder's bank and the Paying Agent, and opening hours of the receiving bank, cash settlement may be delayed, and payment shall be deemed to have been made once the cash settlement has taken place, provided, however, that no default interest or other penalty shall accrue for the account of the Issuer for such delay.
- 10.8 Notwithstanding anything to the contrary in these Terms and Conditions, the Bonds shall be subject to, and any payments made in relation thereto shall be made in accordance with, the CSD Regulations.
- 10.9 The Issuer shall pay any stamp duty and other public fees accruing in connection with the Initial Bond Issue or a Subsequent Bond Issue, but not in respect of trading in the secondary market (except to the extent required by applicable law), and shall deduct at source any applicable withholding tax payable pursuant to law. The Issuer shall not be liable to reimburse any stamp duty or public fee or to gross-up any payments under these Terms and Conditions by virtue of any withholding tax, public levy or similar.

## **11. INTEREST**

- 11.1 Each Initial Bond carries Interest at the Interest Rate applied to the Nominal Amount from (and including) the First Issue Date up to (but excluding) the relevant Redemption Date. Any Subsequent Bond will carry Interest at the Interest Rate applied to the Nominal Amount from (and including) the Interest Payment Date falling immediately prior to its Issue Date (or the First Issue Date if there is no such Interest Payment Date) up to (but excluding) the relevant Redemption Date.
- 11.2 Interest accrues during an Interest Period. Payment of Interest in respect of the Bonds shall be made to the Bondholders in arrear on each Interest Payment Date for the preceding Interest Period.
- 11.3 Interest shall be calculated on the basis of the actual number of calendar days in the Interest Period in respect of which payment is being made divided by 360 (actual/360-days basis).
- 11.4 If the Issuer fails to pay any amount payable by it on its due date under the Finance Documents ("**Overdue Amount**"), default interest shall accrue on the Overdue Amount from (and including) the due date up to (but excluding) the date of actual payment at a rate which is two hundred (200) basis points higher than the Interest Rate. Default interest accrued on any Overdue Amount pursuant to this Clause 11.4 will be added to the Overdue Amount on each Interest Payment Date until the Overdue Amount and default interest accrued thereon have been repaid in full. No default interest shall accrue where the failure to pay was solely attributable to the Paying Agent or the CSD, in which case the Interest Rate shall apply instead.

These Terms and Conditions apply with identical terms and conditions to (i) all Bonds issued under this ISIN and (ii) any Overdue Amounts issued under one or more separate ISIN in accordance with the regulations of the CSD from time to time. Holders of Overdue Amounts related to interest claims will not have any other rights under these Terms and Conditions than their claim for payment of such interest claim which claim shall be subject to Clause 18.4.4.

## **12. REDEMPTION AND REPURCHASE OF THE BONDS**

### **12.1 Redemption at maturity**

- 12.1.1 The Issuer shall redeem all, but not some only, of the Bonds in full on the Final Redemption Date with an amount per Bond equal to one hundred (100.00) per cent. of the Nominal Amount together with accrued but unpaid Interest. If the Final Redemption Date is not a CSD Business Day, the redemption shall to the extent permitted under the CSD Regulations occur on the CSD Business Day following from an application of the Business Day Convention or, if not permitted under the CSD Regulations, on the first following CSD Business Day.

### **12.2 Purchase of Bonds by Group Companies**

The Issuer and any Group Company may, subject to applicable regulations and Clause 5.2, at any time and at any price purchase Bonds in the market or in any other way. Bonds held by the Issuer or any Group Company may at the Issuer's or such Group Company's discretion be retained, sold, but not cancelled, except in connection with a redemption of the Bonds in full.

### **12.3 Early voluntary total redemption (call option (American))**

- 12.3.1 The Issuer may redeem early all, but not only some, of the Bonds on any CSD Business Day before the Final Redemption Date. Each Bond shall be redeemed at the applicable Call Option Amount together with accrued but unpaid interest.
- 12.3.2 Redemption in accordance with Clause 12.3.1 shall be made by the Issuer giving not less than ten (10) Business Days' notice to the Bondholders and the Agent. Upon receipt of such notice, the Agent shall inform the Paying Agent. Any such notice shall state the Redemption Date and the relevant Record Date. Such notice is irrevocable but may, at the Issuer's discretion, contain one or more conditions precedent that shall be fulfilled or waived at least three (3) CSD Business Days prior to the Record Date. Upon expiry of such notice and the fulfilment of the conditions precedent (if any), the Issuer shall redeem the Bonds in full at the applicable amount on the specified Redemption Date.

### **12.4 Mandatory repurchase due to a Change of Control (put option)**

- 12.4.1 Should a Change of Control occur, each Bondholder shall have a right of prepayment (put option) of its Bonds at a price of one hundred and one (101.00) per cent. of the Nominal Amount (plus accrued and unpaid Interest) during a period of thirty (30) calendar days following the notice of the relevant event pursuant to paragraph (b) of Clause 14.3 (*Miscellaneous*) (the "**Exercise Period**"). The settlement date of the put option shall occur within twenty (20) CSD Business Days after the end of the Exercise Period.

- 12.4.2 The notice from the Issuer pursuant to paragraph (b) of Clause 14.3 (*Miscellaneous*) shall specify the repurchase date and include instructions about the actions that a Bondholder needs to take if it wants Bonds held by it to be repurchased. If a Bondholder has so requested, and acted in accordance with the instructions in the notice from the Issuer, the Issuer, or a Person designated by the Issuer, shall repurchase the relevant Bonds and the repurchase amount shall fall due on the repurchase date specified in the notice given by the Issuer pursuant to paragraph (b) of Clause 14.3 (*Miscellaneous*). The repurchase date must fall on a CSD Business Day that falls no later than twenty (20) CSD Business Days after the end of the period referred to in Clause 12.4.1.
- 12.4.3 The Issuer shall comply with the requirements of any applicable securities regulations in connection with the repurchase of Bonds. To the extent that the provisions of such regulations conflict with the provisions in this Clause 12.4, the Issuer shall comply with the applicable securities regulations and will not be deemed to have breached its obligations under this Clause 12.4 by virtue of the conflict.
- 12.4.4 Notwithstanding the above, no put option shall be triggered due to a Change of Control if the call option set out in Clause 12.3 (*Early voluntary total redemption (call option (American))*) has been exercised by way of a call notice which has become unconditional on or before the end of the Exercise Period.
- 12.4.5 Any Bonds repurchased by the Issuer pursuant to this Clause 12.4 may at the Issuer's discretion be retained or sold, but not cancelled except in connection with a redemption of the Bonds in full.

### **13. TRANSACTION SECURITY AND GUARANTEES**

#### **13.1 General**

- 13.1.1 Subject to the Agreed Security Principles and Intercreditor Agreement (if any), as continuing Security for the due and punctual fulfilment of the Secured Obligations, the Issuer grants, and shall procure that each other relevant Group Company or other Person (as applicable) grants, the Transaction Security as first ranking Security to the Secured Parties as represented by the Agent at the times set out in these Terms and Conditions. The Transaction Security shall be provided and perfected pursuant to, and subject to the terms of, the Transaction Security Documents.
- 13.1.2 The Agent shall hold the Transaction Security on behalf of the Secured Parties in accordance with the Transaction Security Documents and the Intercreditor Agreement (if any).
- 13.1.3 Subject to the terms of the Intercreditor Agreement (if any), unless and until the Agent has received instructions from the Bondholders in accordance with Clause 18 (*Decisions by Bondholders*), the Agent shall (without first having to obtain the Bondholders' consent) be entitled to enter into agreements with the Issuer or a third party or take any other actions, if it is, in the Agent's opinion, necessary for the purpose of maintaining, altering, releasing or enforcing the Transaction Security and/or the Guarantees, creating further Security for the benefit of the Secured Parties or for the purpose of settling Bondholders' or the Issuer's rights

to the Transaction Security and/or the Guarantees, in each case in accordance with the terms of the Finance Documents.

- 13.1.4 Each of the Guarantors will, subject to applicable laws, the Agreed Security Principles and the Intercreditor Agreement (if any), adhere to certain undertakings under these Terms and Conditions and irrevocably and unconditionally, jointly and severally, as principal obligor, guarantee to the Bondholders, the Agent (representing the Bondholders) and the other secured parties, the punctual performance of all obligors' obligations under the Finance Documents (and after the entry into the Intercreditor Agreement, any Super Senior Debt). Any Guarantee shall be shared between the Secured Parties in accordance with the terms of the Intercreditor Agreement. All guarantees shall be subject to, and limited as required by, the Agreed Security Principles, financial assistance regulations and other corporate law limitations.
- 13.1.5 The Agent shall hold the Guarantees on behalf of the Secured Parties in accordance with the Guarantee and Adherence Agreement, the Agreed Security Principles and the Intercreditor Agreement (if any).
- 13.1.6 For the purpose of exercising the rights of the Secured Parties, the Agent may instruct the CSD in the name and on behalf of the Issuer to arrange for payments to the Secured Parties under the Finance Documents and change the bank account registered with the CSD and from which payments under the Bonds are made to another bank account. The Issuer shall immediately upon request by the Agent provide it with any such documents, including a written power of attorney (in form and substance satisfactory to the Agent and the CSD), that the Agent deems necessary for the purpose of exercising its rights and/or carrying out its duties under this Clause 13.

### 13.2 **Further assurance**

Subject to the Intercreditor Agreement (if entered into), unless and until the Agent has received instructions from the Bondholders in accordance with Clause 18 (*Decisions by Bondholders*), the Agent shall (without first having to obtain the Bondholders' consent) be entitled to enter into agreements with the Issuer or a third party or take any other actions, if it is, in the Agent's opinion, necessary for the purpose of maintaining, altering, releasing or enforcing the Transaction Security and/or the Guarantees, creating further Security for the benefit of the Secured Parties or for the purpose of settling the Bondholders' or the Issuer's rights to the Transaction Security and/or the Guarantees, in each case in accordance with the terms of the Finance Documents.

### 13.3 **Enforcement**

- 13.3.1 If the Bonds are declared due and payable according to Clause 17 (*Termination of the Bonds*), the Agent is, without first having to obtain the Bondholders' consent, entitled to enforce the Transaction Security in such manner and under such conditions that the Agent finds acceptable (if in accordance with the Transaction Security Documents and subject to the Intercreditor Agreement (if any)).
- 13.3.2 For the purpose of exercising the rights of the Bondholders and the Agent under the Finance Documents and for the purpose of distributing any funds originating from the enforcement of any Transaction Security, the Issuer irrevocably authorises and empowers the Agent to act in

the name of the Issuer, and on behalf of the Issuer, to instruct the CSD to arrange for payment to the Secured Parties under the Finance Documents and change the bank account registered with the CSD and from which payments under the Bonds are made to another bank account. To the extent permissible by law, the powers set out in this Clause 13.3.2 are irrevocable and shall be valid for as long as any Bonds remain outstanding. The Issuer shall immediately upon request by the Agent provide the Agent with any such documents, including a written power of attorney, which the Agent deems necessary for the purpose of carrying out its duties under Clause 17.10.3 (including as required by the CSD in order for the CSD to accept such payment instructions). Especially, the Issuer shall, upon the Agent's request, provide the Agent with a written power of attorney empowering the Agent to change the bank account registered with the CSD to a bank account in the name of the Agent and to instruct the CSD to pay out funds originating from an enforcement in accordance with this Clause 13.3 to the Bondholders through the CSD.

#### **13.4 Release of Transaction Security and Guarantees**

- 13.4.1 Subject to the Intercreditor Agreement (if any), the Agent shall be entitled to release the Transaction Security and Guarantees in accordance with the terms of the Transaction Security Documents and the Guarantee and Adherence Agreement.
- 13.4.2 The Agent shall be entitled to release the security over the Escrow Account in accordance with the Escrow Account Pledge Agreement and in order to fund a Mandatory Redemption in accordance with Clause 5.3.

### **14. INFORMATION UNDERTAKINGS**

#### **14.1 Financial Reports**

The Issuer shall prepare and make available in English and on its website:

- (a) the annual audited consolidated financial statements of the Group, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Parent's board of directors not later than six (6) months (or, following the date of listing of the Initial Bonds on a Regulated Market, four (4) months) after the expiry of each financial year, from and including the financial year ending 31 December 2026; and
- (b) the quarterly interim unaudited consolidated financial statements of the Group, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Parent's board of directors not later than two (2) months after the expiry of each relevant interim period, from and including the financial period ending 30 September 2026.

#### **14.2 Compliance Certificate**

- 14.2.1 The Issuer shall issue a Compliance Certificate to the Agent signed by the CEO or any other duly authorised signatory of the Issuer:
  - (a) in connection with the delivery of an Annual Report;

- (b) in connection with the testing of the Incurrence Test and/or the Distribution Test; and
- (c) at the Agent's reasonable request, within ten (10) Business Days from such request.

14.2.2 In each Compliance Certificate, the Issuer shall (as applicable):

- (a) certify that, so far as it is aware, no Event of Default is continuing or, if it is aware that such event is continuing, specifying the event and steps, if any, being taken to remedy it;
- (b) if provided in connection with the testing of the Incurrence Test and/or the Distribution Test, certify that the Incurrence Test and/or the Distribution Test is met and include calculations and figures in respect of the Incurrence Test and/or the Distribution Test; and
- (c) if provided in connection with the Annual Report:
  - (i) identify all Material Group Companies;
  - (ii) nominate any Material Group Company required to meet the Guarantor Coverage Test; and
  - (iii) confirm that the Issuer and the Material Group Companies account for at least eighty (80.00) per cent. of EBITDA of the Group (disregarding intragroup items and calculated on a *pro forma* basis for the entire Reference Period) tested annually based on the most recent Annual Report as set out in Clause 16.10 (*Additional Security and Guarantors*) to which the Compliance Certificate relates (the "**Guarantor Coverage Test**").

#### 14.3 **Miscellaneous**

The Issuer shall:

- (a) keep the latest version of the Terms and Conditions (including documents amending the Terms and Conditions) available on its website; and
- (b) promptly notify the Agent (and as regards a Change of Control, the Bondholders) when the Issuer is or becomes aware of (i) the occurrence of a Change of Control or (ii) an Event of Default and shall provide the Agent with such further information as the Agent may request (acting reasonably) following receipt of such notice.

### 15. **FINANCIAL COVENANTS**

#### 15.1 **Incurrence Test and Distribution Test**

15.1.1 The Incurrence Test is met if:

- (a) the Leverage Ratio is less than 2.50x; and
- (b) no Event of Default is continuing or would result from the expiry of a grace period, the giving of a notice, the making of any determination (or any combination of the foregoing) or from the relevant incurrence.

15.1.2 The Distribution Test is met if:

- (a) the Leverage Ratio is less than 1.50x; and
- (b) no Event of Default is continuing or would result from the expiry of a grace period, the giving of a notice, the making of any determination (or any combination of the foregoing) or from the Restricted Payment.

15.1.3 The calculation of the ratio of Net Interest Bearing Debt to EBITDA for the purpose of the Incurrence Test and the Distribution Test shall be made as per a testing date determined by the Issuer, falling no more than 3 months prior to the incurrence of the new Financial Indebtedness or the making of the Restricted Payment (as applicable) but in each case not earlier than the First Issue Date.

## 15.2 Calculation principles

15.2.1 The figures for EBITDA for the Reference Period ending on the last day of the period covered by the most recent Financial Report shall be used for the Incurrence Test and the Distribution Test but adjusted so that (without double counting):

- (a) any entities or businesses acquired by the Group during the relevant Reference Period, or after the end of the relevant Reference Period but before the relevant testing date, shall be included *pro forma* for the entire Reference Period;
- (b) any entities or businesses disposed of by the Group during the relevant Reference Period, or after the end of the relevant Reference Period but before the relevant testing date, shall be excluded *pro forma* for the entire Reference Period; and
- (c) any entity or business to be acquired with the proceeds of new Financial Indebtedness shall be included *pro forma* for the entire Reference Period.

15.2.2 The figures for Net Interest Bearing Debt for the Incurrence Test and the Distribution Test shall be measured on the relevant test date, but shall be (without double counting):

- (a) In respect of the incurrence of new Financial Indebtedness:
  - (i) increased on a pro forma basis to include an amount equal to (A) the new interest bearing Financial Indebtedness in respect of which the Incurrence Test is applied, (B) any interest bearing Financial Indebtedness incurred to finance the acquisition of entities and (C) any interest bearing Financial Indebtedness owed by any entity to be acquired with such interest bearing Financial Indebtedness;
  - (ii) increased by any interest bearing Financial Indebtedness which requires that the Incurrence Test is met and incurred after the relevant test date up until and including the date of the relevant incurrence; and
  - (iii) decreased on a pro forma basis to exclude any interest bearing Financial Indebtedness to the extent it will be refinanced with the new Financial Indebtedness in respect of which the Incurrence Test is applied,

however, any cash balance resulting from the incurrence of the new Financial Indebtedness shall not reduce Net Interest Bearing Debt; and

- (b) in respect of any Restricted Payment, any cash to be distributed or contributed in any way shall be deducted from Cash and Cash Equivalents of the Group when calculating Net Interest Bearing Debt for the purpose of the Distribution Test.

## 16. SPECIAL UNDERTAKINGS

### 16.1 General

- 16.1.1 So long as any Bond remains outstanding, the Issuer undertakes to comply with the undertakings set forth in this Clause 16. Any undertaking below referring to any of the Guarantors shall be made by such Guarantor under the Guarantee and Adherence Agreement.
- 16.1.2 Notwithstanding anything to the contrary in these Terms and Conditions, no Group Company shall be prohibited from entering into any occupational lease in relation to any new hotel or any amendment in relation to any occupational lease in relation to an existing hotel provided always that no Event of Default has occurred and is continuing.

### 16.2 Distributions

- 16.2.1 The Issuer shall not, and shall procure that no other Group Company will (i) pay any dividend on its shares, (ii) repurchase or redeem any of its own, or its direct or indirect shareholder's, shares, (iii) redeem or reduce its share capital or other restricted or unrestricted equity with repayment to shareholders, (iv) repay or repurchase any Subordinated Loans, or other subordinated debt, or pay capitalised or accrued interest thereunder or (v) make any other similar distribution or transfers of value to its direct or indirect shareholders or any of their Affiliates (each a "**Restricted Payment**").
- 16.2.2 Notwithstanding Clause 16.2.1, a Restricted Payment may be made:
  - (a) to a Group Company but, if made by a Subsidiary which is not directly or indirectly wholly-owned by the Issuer, is made on a pro rata basis; and
  - (b) from and including the later of (A) 1 January 2027 and (B) the date of the Clean Down, if:
    - (i) the Distribution Test is met (calculated on a *pro forma* basis including the relevant Restricted Payment); and
    - (ii) the aggregate amount of all Restricted Payments of the Group in any financial year (including the Restricted Payment in question but excluding all Restricted Payments made in accordance with paragraph (i) above) does not exceed 25.00 per cent. of the Group's consolidated net profit according to the Annual Report for the previous financial year (and without accumulation of profits from previous financial years).

### 16.3 Listing

The Issuer shall ensure that:

- (a) the Initial Bonds are admitted to trading on a Regulated Market within twelve (12) months after the First Issue Date;

- (b) any Subsequent Bonds are admitted to trading on the same Regulated Market as the Initial Bonds not later than the later to occur of (A) sixty (60) calendar days from the Issue Date of the relevant Subsequent Bonds and (B) the date of admission to trading of the Initial Bonds on the Regulated Market; and
- (c) the Bonds, if admitted to trading on a Regulated Market, continue being admitted to trading thereon for as long as any Bonds are outstanding (however, taking into account the rules and regulations of the relevant Regulated Market and the CSD (as amended from time to time) preventing trading in the Bonds in close connection to the redemption of the Bonds).

#### 16.4 **Nature of business**

The Issuer shall procure that no substantial change is made to the general nature of the business carried on by the Group as of the First Issue Date.

#### 16.5 **Financial Indebtedness**

The Issuer shall not, and shall procure that no other Group Company will, incur, prolong, maintain, renew or extend any Financial Indebtedness, save for Permitted Debt.

#### 16.6 **Clean down**

The Issuer shall procure that there is a period of 1 day on or prior to 30 June 2027 during which the amount outstanding under any Super Senior RCF amounts to zero (the “**Clean Down**”). Compliance with the Clean Down shall be confirmed in a Compliance Certificate issued to the Agent within ten (10) Business Days from the Clean Down.

#### 16.7 **Loans out**

The Issuer shall not, and shall procure that no other Group Company will, extend any loans (including any accrued but unpaid interest and in the case of (c) and/or guarantees) in any form to any other party, save for:

- (a) to other Group Companies;
- (b) in the ordinary course of business of the relevant Group Company;
- (c) to development companies, provided that the aggregate principal amount of such loans and/or guarantees may not exceed EUR 40,000,000;
- (d) secured loans to employees up to EUR 3,000,000 in aggregate at any time;
- (e) existing loans in an aggregate principal amount of EUR 8,300,000 to denkmalnue.gastgeber Sachsen GmbH; or
- (f) any other loans not otherwise permitted by (a) to (e) above, in an aggregate principal amount at any time not exceeding EUR 500,000 (or its equivalent in any other currency or currencies).

Any loan made pursuant to paragraphs (b) to (f) above shall be made on arm’s length terms, and in respect of any loan extended pursuant to item (c), be made subject to Transaction Security upon being extended.

## 16.8 **Negative pledge**

The Issuer shall not, and shall procure that no other Group Company will, provide, prolong, retain or renew any security over any of its assets (present or future) save for Permitted Security.

## 16.9 **Mergers and demergers**

Subject to the terms of the Intercreditor Agreement (if any), the Issuer shall not, and shall procure that no Group Company will, merge or demerge any Group Company, unless such merger or demerger is not likely to have a Material Adverse Effect, provided however that a merger or demerger with the effect that the Parent or the Issuer is not the surviving entity shall not be permitted and that the transferee Group Company shall immediately in connection with the merger be or become a Guarantor if the transferor Group Company is a Guarantor.

## 16.10 **Additional Security and Guarantors**

16.10.1 The Issuer shall ensure that each Group Company required to meet the Guarantor Coverage Test is nominated as a Material Group Company in the Compliance Certificate delivered in connection with the Group's Annual Report each year.

16.10.2 Subject to the terms of the Intercreditor Agreement (if any), the Issuer shall (subject to general statutory limitations in local law legislation and the Agreed Security Principles), no later than ninety (90) calendar days following the publication of each Annual Report (or such date when the Annual Report should have been published), provide the Agent with the following documents and evidence:

- (a) constitutional documents and corporate resolutions (approving the relevant Finance Documents and authorising a signatory/-ies to execute the relevant Finance Documents) evidencing that the relevant Finance Documents have been duly executed;
- (b) evidence that each Material Group Company has entered into or acceded to the Guarantee and Adherence Agreement as a Guarantor and that each Material Group Company and any Group Company providing Transaction Security pursuant to paragraph (c) below has acceded to the Intercreditor Agreement (if any) as an ICA Group Company; and
- (c) copies of duly executed Transaction Security Documents in respect of all shares owned by a Group Company in each Material Group Company, receivables and bank accounts of each Material Group Company and a floating charge granted by each Material Group Company, including evidence that the documents, notices and other evidences to be delivered pursuant to such Transaction Security Documents have been delivered in accordance with such Transaction Security Document.

16.10.3 Subject to the Intercreditor Agreement (if any), the Issuer shall within thirty (30) Business Days of granting a Material Intragroup Loan or incurring a Subordinated Loan, procure that such Material Intragroup Loan or Subordinated Loan (as applicable) is made subject to perfected Transaction Security for all amounts outstanding under the Finance Documents.

16.10.4 In the case of each of Clauses 16.10.2 and 16.10.3 above, in case any party to the relevant Finance Document(s) is not incorporated in Sweden or Norway or any relevant Finance

Document is not governed by Swedish or Norwegian law, the Issuer shall provide a legal opinion on due execution, capacity, validity and enforceability, as well as the role of the security agent in such jurisdiction, issued to the Agent by a reputable law firm and in form and substance satisfactory to the Agent (acting reasonably).

#### **16.11 Disposals of assets**

16.11.1 Subject to the terms of the Intercreditor Agreement (if any), the Issuer shall not, and shall procure that no other Group Company will, sell or otherwise dispose of any shares in any Group Company or of any substantial assets or operations to any person not being the Issuer or any Guarantor, unless the transaction is carried out at fair market value and on terms and conditions customary for such transaction and provided that it does not have a Material Adverse Effect.

16.11.2 No such asset that is subject to Transaction Security may be disposed of unless such disposal is permitted pursuant to the Intercreditor Agreement (if any) and the terms of the relevant Transaction Security Document.

#### **16.12 Dealings with related parties**

The Issuer shall, and shall procure that each other Group Company will, conduct all dealings with their direct and indirect shareholders (excluding the Issuer and any other Group Company) and/or any Affiliates of such direct and indirect shareholders on arm's length terms, save for any Restricted Payment permitted pursuant to Clause 16.2 (*Distributions*).

#### **16.13 Compliance with laws and authorisations**

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

### **17. TERMINATION OF THE BONDS**

Each of the events or circumstances set out in this Clause 17 is an Event of Default (save for Clause 17.9 (*Termination*) and Clause 17.10 (*Distribution of proceeds*)).

#### **17.1 Non-payment**

The Issuer or any Guarantor fails to pay an amount on the date it is due in accordance with the Finance Documents unless its failure to pay is due to technical or administrative error and is remedied within five (5) CSD Business Days of its due date.

#### **17.2 Other obligations**

The Issuer or any Guarantor does not comply with its obligations under the Finance Documents in any other way than as set out under Clause 17.1 (*Non-payment*) above, unless the non-compliance is (i) capable of being remedied and (ii) is remedied within fifteen (15)

Business Days of the earlier of (A) the Agent giving notice and (B) the Issuer becoming aware of the non-compliance.

### 17.3 **Cross-payment default / Cross-acceleration**

Any Financial Indebtedness of a Material Group Company is not paid when due nor within any originally applicable grace period, or is declared to be due and payable prior to its specified maturity as a result of an event of default (however described), provided that no Event of Default will occur under this Clause 17.3 unless the amount of Financial Indebtedness individually or in the aggregate exceeds an amount corresponding to EUR 2,500,000 (or its equivalent in any other currency or currencies) and provided that it does not apply to any Financial Indebtedness owed to a Group Company.

### 17.4 **Insolvency**

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

### 17.5 **Insolvency proceedings**

Any corporate action, legal proceedings or other procedures are taken (other than (i) proceedings or petitions which are being disputed in good faith and are discharged, stayed or dismissed within 60 days of commencement or, if earlier, the date on which it is advertised, (ii) proceedings or petitions concerning a claim which is less than EUR 2,500,000 and (iii), in relation to Subsidiaries, solvent liquidations) in relation to:

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

### 17.6 **Creditors' process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Material Group Company having an aggregate value equal to or exceeding EUR 2,500,000 (or its equivalent in any other currency or currencies) and is not discharged within sixty (60) calendar days or any security over any assets of a Material Group Company is enforced.

## 17.7 **Impossibility or illegality**

It is or becomes impossible or unlawful for the Issuer or any other Group Company to fulfil or perform any of the provisions of the Finance Documents or if the obligations under the Finance Documents are not, or cease to be, legal, valid, binding and enforceable.

## 17.8 **Cessation of business**

A Material Group Company ceases to carry on its business and such discontinuation is likely to have a Material Adverse Effect.

## 17.9 **Termination**

17.9.1 Subject to the terms of the Intercreditor Agreement (if any), if an Event of Default has occurred and is continuing, the Agent is entitled to, and shall following a demand in writing from a Bondholder (or Bondholders) representing at least fifty (50.00) per cent. of the Adjusted Nominal Amount (such demand shall, if made by several Bondholders, be made by them jointly) or following an instruction or decision pursuant to Clause 17.9.3 or 17.9.5, on behalf of the Bondholders, by notice to the Issuer terminate the Bonds and to declare all, but not some only, of the Bonds due for payment immediately or at such later date as the Agent determines (such later date not falling later than twenty (20) Business Days from the date on which the Agent made such declaration) and exercise any or all of its rights, remedies, powers and discretions under the Finance Documents.

17.9.2 The Agent may not terminate the Bonds in accordance with Clause 17.9.1 by reference to a specific Event of Default if it is no longer continuing or if it has been decided, in accordance with these Terms and Conditions, to waive such Event of Default (temporarily or permanently). However, if a moratorium occurs, the ending of that moratorium will not prevent termination for payment prematurely on the grounds mentioned under Clause 17.9.1.

17.9.3 The Agent shall notify the Bondholders of an Event of Default within five (5) Business Days of the date on which the Agent received notice of or gained actual knowledge of that an Event of Default has occurred and is continuing. Notwithstanding the aforesaid, the Agent may postpone a notification of an Event of Default (other than in relation to Clause 17.1 (*Non-payment*)) up until the time stipulated in Clause 17.9.4 for as long as, in the reasonable opinion of the Agent such postponement is in the interests of the Bondholders as a group. The Agent shall always be entitled to take the time necessary to determine whether an event constitutes an Event of Default.

17.9.4 The Agent shall, within twenty (20) Business Days of the date on which the Agent received notice of or otherwise gained actual knowledge of that an Event of Default has occurred and is continuing, decide if the Bonds shall be so accelerated. If the Agent has decided not to terminate the Bonds, the Agent shall, at the earliest possible date, notify the Bondholders that there exists a right of termination and obtain instructions from the Bondholders according to the provisions in Clause 18 (*Decisions by Bondholders*). If the Bondholders vote in favour of termination and instruct the Agent to terminate the Bonds, the Agent shall promptly declare the Bonds terminated. However, if the cause for termination according to the Agent's appraisal has ceased before the termination, the Agent shall not terminate the Bonds. The Agent shall in such case, at the earliest possible date, notify the Bondholders that the cause for termination

has ceased. The Agent shall always be entitled to take the time necessary to consider whether an event that has occurred constitutes an Event of Default.

- 17.9.5 If the Bondholders (in accordance with these Terms and Conditions) instruct the Agent to accelerate the Bonds, the Agent shall promptly declare the Bonds due and payable and take such actions as may, in the opinion of the Agent, be necessary or desirable to enforce the rights of the Bondholders under the Senior Finance Documents, unless the relevant Event of Default is no longer continuing.
- 17.9.6 If the right to terminate the Bonds is based upon a decision of a court of law, an arbitrational tribunal or a government authority, it is not necessary that the decision has become enforceable under any applicable regulation or that the period of appeal has expired in order for cause of termination to be deemed to exist.
- 17.9.7 For the avoidance of doubt, the Bonds cannot be terminated and become due for payment prematurely according to this Clause 17 without relevant decision by the Agent or following instructions from the Bondholders pursuant to Clause 18 (*Decisions by Bondholders*).
- 17.9.8 If the Bonds are declared due and payable in accordance with this Clause 17, the Issuer shall redeem all Bonds with an amount per Bond equal to the applicable price set out in the Call Option Amount for the relevant period, and shall for the period until the First Call Date be the price set out in paragraph (b) of the definition of the Call Option Amount (in each case plus accrued and unpaid interest).

17.10 **Distribution of proceeds**

- 17.10.1 If the Bonds have been declared due and payable due to an Event of Default, all payments by the Issuer or any Guarantor relating to the Bonds and proceeds received from an enforcement of any Transaction Security Documents shall be made and/or distributed in accordance with the Intercreditor Agreement (if any) and shall, prior to the entering into of an Intercreditor Agreement, be made and/or distributed in the following order of priority:
- (a) *firstly*, in or towards payment of the Agent (in its capacity as bond agent and/or security agent) and the Paying Agent under the Finance Documents, including all costs, fees, expenses and indemnities (including non-reimbursed costs incurred by the Agent for external experts) relating to the acceleration of the Bonds or the protection of the Bondholders' rights under the Finance Documents;
  - (b) *secondly*, in or towards payment pro rata of accrued but unpaid interest under the Bonds (interest due on an earlier Interest Payment Date to be paid before any interest due on a later Interest Payment Date);
  - (c) *thirdly*, in or towards payment pro rata of any unpaid principal under the Bonds; and
  - (d) *fourthly*, in or towards payment pro rata of any other costs or outstanding amounts unpaid under the Finance Documents.

Any excess funds after the application of proceeds in accordance with paragraphs (a) to (d) above shall be paid to the Issuer or any Guarantor (as applicable).

- 17.10.2 If a Bondholder or another party has paid any fees, costs, expenses or indemnities referred to in Clause 17.10.1, such Bondholder or other party shall be entitled to reimbursement by way of a corresponding distribution in accordance with Clause 17.10.1. The application of proceeds in accordance with paragraphs (a) to (d) above shall, however, not restrict a Bondholders' Meeting or a Written Procedure from resolving that accrued Interest (whether overdue or not) shall be reduced without a corresponding reduction of principal.
- 17.10.3 Funds that the Agent receives (directly or indirectly) in connection with the termination of the Bonds constitute escrow funds (Sw. *redovisningsmedel*) according to the Escrow Funds Act (Sw. *lag (1944:181) om redovisningsmedel*) and must be held on a separate bank account on behalf of the Bondholders and the other interested parties. The Agent shall arrange for payments of such funds in accordance with this Clause 17.10 as soon as reasonably practicable.
- 17.10.4 If the Issuer, any of the Guarantors or the Agent shall make any payment under this Clause 17.10, the Issuer or the Agent, as applicable, shall notify the Bondholders of any such payment at least ten (10) Business Days before the payment is made. Such notice shall specify the Record Date, the payment date and the amount to be paid. Notwithstanding the foregoing, for any Interest due but unpaid the Record Date specified in Clause 10.1 shall apply.

## **18. DECISIONS BY BONDHOLDERS**

### **18.1 Request for a decision**

- 18.1.1 A request by the Agent for a decision by the Bondholders on a matter relating to the Finance Documents shall (at the option of the Agent) be dealt with at a Bondholders' Meeting or by way of a Written Procedure.
- 18.1.2 Any request from the Issuer or a Bondholder (or Bondholders) representing at least ten (10.00) per cent. of the Adjusted Nominal Amount (such request may only be validly made by a Person who is a Bondholder on the Business Day immediately following the day on which the request is received by the Agent and shall, if made by several Bondholders, be made by them jointly) for a decision by the Bondholders on a matter relating to the Finance Documents shall be directed to the Agent and dealt with at a Bondholders' Meeting or by way of a Written Procedure, as determined by the Agent. The Person requesting the decision may suggest the form for decision making, but if it is in the Agent's opinion more appropriate that a matter is dealt with at a Bondholders' Meeting than by way of a Written Procedure, it shall be dealt with at a Bondholders' Meeting.
- 18.1.3 The Agent may refrain from convening a Bondholders' Meeting or instigating a Written Procedure if the suggested decision must be approved by any Person in addition to the Bondholders and such Person has informed the Agent that an approval will not be given or the suggested decision is not in accordance with applicable regulations.
- 18.1.4 The Agent shall not be responsible for the content of a notice for a Bondholders' Meeting or a communication regarding a Written Procedure unless and to the extent it contains information provided by the Agent.

18.1.5 Should the Agent not convene a Bondholders' Meeting or instigate a Written Procedure in accordance with these Terms and Conditions, without Clause 18.1.3 being applicable, the Person requesting a decision by the Bondholders may convene such Bondholders' Meeting or instigate such Written Procedure, as the case may be, itself. If the requesting Person is a Bondholder, the Issuer shall upon request from such Bondholder provide the Bondholder with necessary information from the Debt Register in order to convene and hold the Bondholders' Meeting or instigate and carry out the Written Procedure, as the case may be.

18.1.6 Should the Issuer want to replace the Agent, it may convene a Bondholders' Meeting in accordance with Clause 18.2.1 or instigate a Written Procedure by sending communication in accordance with Clause 18.3.1. After a request from the Bondholders pursuant to Clause 21.4.3, the Issuer shall no later than five (5) Business Days after receipt of such request (or such later date as may be necessary for technical or administrative reasons) convene a Bondholders' Meeting in accordance with Clause 18.2.1 or instigate a Written Procedure by sending communication in accordance with Clause 18.3.1. The Issuer shall inform the Agent before a notice for a Bondholders' Meeting or communication relating to a Written Procedure where the Agent is proposed to be replaced is sent and supply to the Agent a copy of the dispatched notice or communication.

## 18.2 **Bondholders' Meeting**

18.2.1 The Agent shall convene a Bondholders' Meeting by sending a notice thereof to each Bondholder through the CSD no later than five (5) Business Days after receipt of a complete notice from the Issuer or the Bondholder(s) (or such later date as may be necessary for technical or administrative reasons). If the Bondholders' Meeting has been requested by the Bondholder(s), the Agent shall send a copy of the notice to the Issuer.

18.2.2 The notice pursuant to Clause 18.2.1 shall include:

- (a) the time for the meeting;
- (b) the place for the meeting;
- (c) a specification of the Record Date on which a person must be a Bondholder (whether registered or a beneficial owner with proof of ownership in accordance with Clause 9 (*Right to act on behalf of a Bondholder*)) in order to be entitled to exercise voting rights;
- (d) an agenda for the meeting (including each request for a decision by the Bondholders and if the proposal concerns an amendment to any Finance Document, the details of such proposed amendment);
- (e) a form of power of attorney;
- (f) any applicable conditions precedent and conditions subsequent;
- (g) should prior notification by the Bondholders be required in order to attend the Bondholders' Meeting, such requirement shall be included in the notice; and
- (h) information on where additional information (if any) will be published.

Only matters that have been included in the notice may be resolved upon at the Bondholders' Meeting.

- 18.2.3 The Bondholders' Meeting shall be held no earlier than ten (10) Business Days and no later than thirty (30) Business Days from the effective date of the notice.
- 18.2.4 If no Person has been appointed by the Agent to open the Bondholders' Meeting, the meeting shall be opened by a Person appointed by the requesting Person.
- 18.2.5 At a Bondholders' Meeting, the Issuer, the Bondholders (or the Bondholders' representatives/proxies) and the Agent may attend along with each of their representatives, counsels and assistants. Further, the directors of the board, the managing director and other officials of the Issuer and the Issuer's auditors and advisors may attend the Bondholders' Meeting. The Bondholders' Meeting may decide that further individuals may attend. If a representative/proxy shall attend the Bondholders' Meeting instead of the Bondholder, the representative/proxy shall present a duly executed proxy or other document establishing its authority to represent the Bondholder.
- 18.2.6 Without amending or varying these Terms and Conditions, the Agent may prescribe such further regulations regarding the convening and holding of a Bondholders' Meeting as the Agent may deem appropriate. Such regulations may include a possibility for Bondholders to vote without attending the meeting in person.

### 18.3 **Written Procedure**

- 18.3.1 The Agent shall instigate a Written Procedure (which may be conducted electronically) no later than five (5) Business Days after receipt of a request from the Issuer or the Bondholder(s) (or such later date as may be necessary for technical or administrative reasons) by sending a communication to each Bondholder through the CSD. If the Written Procedure has been requested by the Bondholder(s), the Agent shall send a copy of the communication to the Issuer.
- 18.3.2 A communication pursuant to Clause 18.3.1 shall include:
  - (a) each request for a decision by the Bondholders;
  - (b) a description of the reasons for each request;
  - (c) a specification of the Business Day on which a Person must be Bondholder (whether registered or a beneficial owner with proof of ownership in accordance with Clause 9 (*Right to act on behalf of a Bondholder*)) in order to be entitled to exercise voting rights;
  - (d) instructions and directions on where to receive a form for replying to the request (such form to include an option to vote yes or no for each request) as well as a form of power of attorney;
  - (e) any applicable conditions precedent and conditions subsequent;
  - (f) the stipulated time period within which the Bondholder must reply to the request (such time period to last at least ten (10) Business Days but no more than twenty (20) Business Days from the communication pursuant to Clause 18.3.1); and

- (g) if the voting shall be made electronically, instructions for such voting.
- 18.3.3 When the requisite majority consents of the aggregate Adjusted Nominal Amount pursuant to Clause 18.4.2 have been received in a Written Procedure, the relevant decision shall be deemed to be adopted pursuant to Clause 18.4.2, as the case may be, even if the time period for replies in the Written Procedure has not yet expired.
- 18.3.4 The Agent may, during the Written Procedure, provide information to the Issuer by way of updates whether or not quorum requirements have been met and about the eligible votes received by the Agent, including the portion consenting or not consenting to the proposal(s) or refraining from voting (as applicable).
- 18.4 **Majority, quorum and other provisions**
- 18.4.1 Only a Bondholder, or the beneficial owner thereof having presented relevant evidence to the Agent pursuant to Clause 9 (*Right to act on behalf of a Bondholder*):
  - (a) on the Record Date prior to the date of the Bondholders' Meeting, in respect of a Bondholders' Meeting, or
  - (b) on the Record Date specified in the communication pursuant to Clause 18.3.2, in respect of a Written Procedure,

may exercise voting rights as a Bondholder at such Bondholders' Meeting or in such Written Procedure, provided that the relevant Bonds are included in the definition of Adjusted Nominal Amount.
- 18.4.2 The following matters shall require consent of Bondholders representing at least sixty-six and two thirds (66<sup>2/3</sup>) per cent. of the Adjusted Nominal Amount for which Bondholders are voting at a Bondholders' Meeting or for which Bondholders reply with a vote in a Written Procedure in accordance with the instructions given pursuant to Clause 18.3.2:
  - (a) waive a breach of or amend an undertaking set out in Clause 16 (*Special undertakings*);
  - (b) except as expressly regulated elsewhere in the relevant Finance Document, release any Transaction Security or Guarantee, in whole or in part;
  - (c) a mandatory exchange of the Bonds for other securities;
  - (d) reduce the principal amount, premiums in connection with redemption or repurchase of any Bonds, Interest Rate or Interest which shall be paid by the Issuer;
  - (e) amend any payment day for principal or Interest or waive any breach of a payment undertaking;
  - (f) a change of issuer; or
  - (g) amend the provisions in this Clause 18.4.2.
- 18.4.3 Any matter not covered by Clause 18.4.2 shall require the consent of Bondholders representing more than fifty (50.00) per cent. of the Adjusted Nominal Amount for which Bondholders are voting at a Bondholders' Meeting or for which Bondholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18.3.2. This includes, but is not limited to, any amendment to or waiver of these Terms and Conditions that does not require a

higher majority (other than an amendment or waiver permitted pursuant to paragraphs (a) to (f) of Clause 19.1) or a termination of the Bonds.

- 18.4.4 Neither a Bondholders' Meeting nor a Written Procedure can resolve that any overdue payment of any instalment shall be reduced unless there is a *pro rata* reduction of the principal that has not fallen due, but may resolve that accrued interest (whether overdue or not) shall be reduced without a corresponding reduction of principal.
- 18.4.5 If the number of votes or replies are equal, the opinion which is most beneficial for the Issuer, according to the chairman at a Bondholders' Meeting or the Agent in a Written Procedure, will prevail. The chairman at a Bondholders' Meeting shall be appointed by the Bondholders.
- 18.4.6 Quorum at a Bondholders' Meeting or in respect of a Written Procedure only exists if a Bondholder (or Bondholders) representing at least twenty (20.00) per cent. of the Adjusted Nominal Amount:
- (a) if at a Bondholders' Meeting, attend the meeting in person or by telephone conference (or appear through duly authorised representatives); or
  - (b) if in respect of a Written Procedure, reply to the request.
- 18.4.7 If a quorum does not exist at a Bondholders' Meeting or in respect of a Written Procedure, the Agent or the Issuer shall convene a second Bondholders' Meeting (in accordance with Clause 18.2.1) or initiate a second Written Procedure (in accordance with Clause 18.3.1), as the case may be, provided that the relevant proposal has not been withdrawn by the Person(s) who initiated the procedure for Bondholders' consent. The quorum requirement in Clause 18.4.6 shall not apply to such second Bondholders' Meeting or Written Procedure.
- 18.4.8 Any decision which extends or increases the obligations of a Group Company or the Agent, or limits, reduces or extinguishes the rights or benefits of a Group Company or the Agent, under the Finance Documents shall be subject to the Issuer's or the Agent's consent, as appropriate.
- 18.4.9 A Bondholder holding more than one Bond need not use all its votes or cast all the votes to which it is entitled in the same way and may in its discretion use or cast some of its votes only.
- 18.4.10 The Issuer may not, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Bondholder for or as inducement to vote under these Terms and Conditions, unless such consideration is offered to all Bondholders that vote at the relevant Bondholders' Meeting or in a Written Procedure within the time period stipulated for the consideration to be payable or the time period for replies in the Written Procedure, as the case may be.
- 18.4.11 A matter decided at a duly convened and held Bondholders' Meeting or by way of Written Procedure is binding on all Bondholders, irrespective of them being present or represented at the Bondholders' Meeting or responding in the Written Procedure. The Bondholders that have not adopted or voted for a decision shall not be liable for any damages that this may cause other Bondholders.
- 18.4.12 All costs and expenses incurred by the Issuer or the Agent for the purpose of convening a Bondholders' Meeting or for the purpose of carrying out a Written Procedure, including reasonable fees to the Agent, shall be paid by the Issuer.

- 18.4.13 If a decision shall be taken by the Bondholders on a matter relating to these Terms and Conditions, the Issuer shall promptly at the request of the Agent provide the Agent with a certificate specifying the number of Bonds owned by Group Companies or (to the knowledge of the Issuer) their Affiliates, irrespective of whether such Person is directly registered as owner of such Bonds. The Agent shall not be responsible for the accuracy of such certificate or otherwise be responsible to determine whether a Bond is owned by a Group Company or an Affiliate of a Group Company.
- 18.4.14 Information about decisions taken at a Bondholders' Meeting or by way of a Written Procedure shall promptly be sent by notice to the Bondholders and published on the websites of the Issuer and the Agent, provided that a failure to do so shall not invalidate any decision made or voting result achieved. The minutes from the relevant Bondholders' Meeting or Written Procedure shall at the request of a Bondholder be sent to it by the Issuer or the Agent, as applicable.

## **19. AMENDMENTS AND WAIVERS**

- 19.1 The Issuer and the Agent (acting on behalf of the Bondholders) may agree in writing to amend the Finance Documents or waive any provision in the Finance Documents, provided that the Agent is satisfied that such amendment or waiver:
- (a) is not detrimental to the interest of the Bondholders;
  - (b) is made solely for the purpose of rectifying obvious errors and mistakes;
  - (c) is required by applicable regulation, a court ruling or a decision by a relevant authority;
  - (d) is necessary for the purpose of having the Bonds admitted to trading on any Regulated Market, provided that such amendment or waiver does not materially adversely affect the rights of the Bondholders;
  - (e) is made pursuant to Clause 20 (*Replacement of Base Rate*); or
  - (f) has been duly approved by the Bondholders in accordance with Clause 18 (*Decisions by Bondholders*) and it has received any conditions precedent specified for the effectiveness of the approval by the Bondholders.
- 19.2 The Agent shall promptly notify the Bondholders of any amendments or waivers made in accordance with Clause 19.1, setting out the date from which the amendment or waiver will be effective, and ensure that any amendments to these Terms and Conditions are available on the websites of the Issuer and the Agent. The Issuer shall ensure that any amendments to these Terms and Conditions are duly registered with the CSD and each other relevant organisation or authority, to the extent such registration is possible with the rules of the relevant CSD.
- 19.3 An amendment or waiver to the Finance Documents shall take effect on the date determined by the Bondholders' Meeting, in the Written Procedure or by the Agent, as the case may be.

## 20. REPLACEMENT OF THE BASE RATE

### 20.1 General

- (a) Any determination or election to be made by an Independent Adviser, the Issuer or the Bondholders in accordance with the provisions of this Clause 20 shall at all times be made by such Independent Adviser, the Issuer or the Bondholders (as applicable) acting in good faith, in a commercially reasonable manner and by reference to relevant market data.
- (b) If a Base Rate Event has occurred, this Clause 20 shall take precedence over the fallbacks set out in paragraph (b) to (d) of the definition of EURIBOR.

### 20.2 Definitions

In this Clause 20:

**“Adjustment Spread”** means a spread (which may be positive, negative or zero) or a formula or methodology for calculating a spread, or a combination thereof to be applied to a Successor Base Rate and that is:

- (a) formally recommended by any Relevant Nominating Body in relation to the replacement of the Base Rate; or
- (b) if (a) is not applicable, the adjustment spread that the Independent Adviser determines is reasonable to use in order to eliminate, to the extent possible, any transfer of economic value from one party to another as a result of a replacement of the Base Rate and is customarily applied in comparable debt capital market transactions.

**“Base Rate Administrator”** means European Money Markets Institute (EMMI) in relation to EURIBOR or any person replacing it as administrator of the Base Rate.

**“Base Rate Amendments”** has the meaning set forth in Clause 20.3(d).

**“Base Rate Event”** means one or several of the following circumstances:

- (a) the Base Rate (for the relevant Interest Period) has ceased to exist or ceased to be published for at least five (5) consecutive Business Days as a result of the Base Rate (for the relevant Interest Period) ceasing to be calculated or administered;
- (b) a public statement or publication of information by (i) the supervisor of the Base Rate Administrator or (ii) the Base Rate Administrator that the Base Rate Administrator ceases to provide the applicable Base Rate (for the relevant Interest Period) permanently or indefinitely and, at the time of the statement or publication, no successor administrator has been appointed or is expected to be appointed to continue to provide the Base Rate;
- (c) a public statement or publication of information in each case by the supervisor of the Base Rate Administrator that the Base Rate (for the relevant Interest Period) is no longer representative of the underlying market which the Base Rate is intended to represent and the representativeness of the Base Rate will not be restored in the opinion of the supervisor of the Base Rate Administrator;

- (d) a public statement or publication of information in each case by the supervisor of the Base Rate Administrator with the consequence that it is unlawful for the Issuer or the Paying Agent to calculate any payments due to be made to any Bondholder using the applicable Base Rate (for the relevant Interest Period) or it has otherwise become prohibited to use the applicable Base Rate (for the relevant Interest Period);
- (e) a public statement or publication of information in each case by the bankruptcy trustee of the Base Rate Administrator or by the trustee under the bank recovery and resolution framework (Sw. *krishanteringsregelverket*), or in respect of EURIBOR, from the equivalent entity with insolvency or resolution powers over the Base Rate Administrator, containing the information referred to in (b) above; or
- (f) a Base Rate Event Announcement has been made and the announced Base Rate Event as set out in paragraphs (b) to (e) above will occur within six (6) months.

**“Base Rate Event Announcement”** means a public statement or published information as set out in paragraphs (b) to (e) of the definition of Base Rate Event that any event or circumstance specified therein will occur.

**“Independent Adviser”** means an independent financial institution or adviser of repute in the debt capital markets where the Base Rate is commonly used.

**“Relevant Nominating Body”** means, subject to applicable law, firstly any relevant supervisory authority, secondly any applicable central bank, or any working group or committee of any of them, or thirdly the Financial Stability Board or any part thereof.

**“Successor Base Rate”** means:

- (a) a screen or benchmark rate, including the methodology for calculating term structure and calculation methods in respect of debt instruments with similar interest rate terms as the Bonds, which is formally recommended as a successor to or replacement of the Base Rate by a Relevant Nominating Body; or
- (b) if there is no such rate as described in paragraph (a) above, such other rate as the Independent Adviser determines is most comparable to the Base Rate.

For the avoidance of doubt, in the event that a Successor Base Rate ceases to exist, this definition shall apply mutatis mutandis to such new Successor Base Rate.

## 20.3 **Determination of Base Rate, Adjustment Spread and Base Rate Amendments**

- (a) Without prejudice to paragraph (b) below, upon a Base Rate Event Announcement, the Issuer may, if it is possible to determine a Successor Base Rate at such point of time, at any time before the occurrence of the relevant Base Rate Event at the Issuer’s expense appoint an Independent Adviser to initiate the procedure to determine a Successor Base Rate, the Adjustment Spread and any Base Rate Amendments for purposes of determining, calculating and finally deciding the applicable Base Rate. For the avoidance of doubt, the Issuer will not be obliged to take any such actions until obliged to do so pursuant to paragraph (b) below.

- (b) If a Base Rate Event has occurred, the Issuer shall use all commercially reasonable endeavours to, as soon as reasonably practicable and at the Issuer's expense, appoint an Independent Adviser to initiate the procedure to determine, as soon as commercially reasonable, a Successor Base Rate, the Adjustment Spread and any Base Rate Amendments for purposes of determining, calculating, and finally deciding the applicable Base Rate.
- (c) If the Issuer fails to appoint an Independent Adviser in accordance with paragraph (b) above, the Bondholders shall, if so decided at a Bondholders' Meeting or by way of Written Procedure, be entitled to appoint an Independent Adviser (at the Issuer's expense) for the purposes set forth in paragraph (b) above. If an Event of Default has occurred and is continuing, or if the Issuer fails to carry out any other actions set forth in Clauses 20.3 to 20.6, the Agent (acting on the instructions of the Bondholders) may to the extent necessary effectuate any Base Rate Amendments without the Issuer's cooperation.
- (d) The Independent Adviser shall also initiate the procedure to determine any technical, administrative or operational changes required to ensure the proper operation of a Successor Base Rate or to reflect the adoption of such Successor Base Rate in a manner substantially consistent with market practice ("**Base Rate Amendments**").
- (e) Provided that a Successor Base Rate, the applicable Adjustment Spread and any Base Rate Amendments have been finally decided no later than prior to the relevant Quotation Day in relation to the next succeeding Interest Period, they shall become effective with effect from and including the commencement of the next succeeding Interest Period, always subject to any technical limitations of the CSD and any calculations methods applicable to such Successor Base Rate.

#### 20.4 Interim measures

- (a) If a Base Rate Event set out in any of the paragraphs (a) to (e) of the Base Rate Event definition has occurred but no Successor Base Rate and Adjustment Spread have been finally decided prior to the relevant Quotation Day in relation to the next succeeding Interest Period or if such Successor Base Rate and Adjustment Spread have been finally decided but due to technical limitations of the CSD, cannot be applied in relation to the relevant Quotation Day, the Interest Rate applicable to the next succeeding Interest Period shall be:
  - (i) if the previous Base Rate is available, determined pursuant to the terms that would apply to the determination of the Base Rate as if no Base Rate Event had occurred; or
  - (ii) if the previous Base Rate is no longer available or cannot be used in accordance with applicable law or regulation, equal to the Interest Rate determined for the immediately preceding Interest Period.
- (b) For the avoidance of doubt, paragraph (a) above shall apply only to the relevant next succeeding Interest Period and any subsequent Interest Periods are subject to the subsequent operation of, and to adjustments as provided in, this Clause 20. This will

however not limit the application of paragraph (a) above for any subsequent Interest Periods, should all relevant actions provided in this Clause 20 have been taken, but without success.

#### **20.5 Notices etc.**

Prior to the Successor Base Rate, the applicable Adjustment Spread and any Base Rate Amendments become effective the Issuer shall promptly, following the final decision by the Independent Adviser of any Successor Base Rate, Adjustment Spread and any Base Rate Amendments, give notice thereof to the Agent, the Paying Agent and the Bondholders in accordance with Clause 26 (*Notices and press releases*) and the CSD. The notice shall also include information about the effective date of the amendments. If the Bonds are admitted to trading on a stock exchange, the Issuer shall also give notice of the amendments to the relevant stock exchange.

#### **20.6 Variation upon replacement of Base Rate**

- (a) No later than giving the Agent notice pursuant to Clause 20.5, the Issuer shall deliver to the Agent a certificate signed by the Independent Adviser and the CEO, CFO or any other duly authorised signatory of the Issuer (subject to Clause 20.3(c)) confirming the relevant Successor Base Rate, the Adjustment Spread and any Base Rate Amendments, in each case as determined and decided in accordance with the provisions of this Clause 20. The Successor Base Rate, the Adjustment Spread and any Base Rate Amendments (as applicable) specified in such certificate will, in the absence of manifest error or bad faith in any decision, be binding on the Issuer, the Agent, the Paying Agent and the Bondholders.
- (b) Subject to receipt by the Agent of the certificate referred to in paragraph (a) above, the Issuer and the Agent shall, at the request and expense of the Issuer, without the requirement for any consent or approval of the Bondholders, without undue delay effect such amendments to the Senior Finance Documents as may be required by the Issuer in order to give effect to this Clause 20.
- (c) The Agent and the Paying Agent shall always be entitled to consult with external experts prior to amendments being effected pursuant to this Clause 20. Neither the Agent nor the Paying Agent shall be obliged to concur if in the reasonable opinion of the Agent or the Paying Agent (as applicable), doing so would impose more onerous obligations upon it or expose it to any additional duties, responsibilities or liabilities or reduce or amend the protective provisions afforded to the Agent or the Paying Agent in the Finance Documents.

#### **20.7 Limitation of liability for the Independent Adviser**

Any Independent Adviser appointed pursuant to Clause 20.3 shall not be liable whatsoever for damage or loss caused by any determination, action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct. The Independent Adviser shall never be responsible for indirect or consequential loss.

## **21. THE AGENT**

### **21.1 Appointment of the Agent**

- 21.1.1 By subscribing for Bonds, each initial Bondholder appoints the Agent to act as its agent and security agent (as applicable) in all matters relating to the Bonds and the Finance Documents, and authorises the Agent to act on its behalf (without first having to obtain its consent, unless such consent is specifically required by these Terms and Conditions) in any legal or arbitration proceedings relating to the Bonds held by such Bondholder, including the winding-up, dissolution, liquidation, company reorganisation (Sw. *företagsrekonstruktion*) or bankruptcy (Sw. *konkurs*) (or its equivalent in any other jurisdiction) of the Issuer. By acquiring Bonds, each subsequent Bondholder confirms such appointment and authorisation for the Agent to act on its behalf.
- 21.1.2 Each Bondholder shall immediately upon request provide the Agent with any such documents, including a written power of attorney (in form and substance satisfactory to the Agent), as the Agent deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents. The Agent is under no obligation to represent a Bondholder which does not comply with such request.
- 21.1.3 The Issuer shall promptly upon request provide the Agent with any documents and other assistance (in form and substance satisfactory to the Agent), that the Agent deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents and the Agency Agreement.
- 21.1.4 The Agent is entitled to fees for all its work in such capacity and to be indemnified for costs, losses and liabilities on the terms set out in the Finance Documents and the Agency Agreement and the Agent's obligations as Agent under the Finance Documents are conditioned upon the due payment of such fees and indemnifications.
- 21.1.5 The Agent may act as agent or trustee and/or security agent for several issues of securities or other loans issued by or relating to the Issuer and other Group Companies notwithstanding potential conflicts of interest.

### **21.2 Duties of the Agent**

- 21.2.1 The Agent shall represent the Bondholders in accordance with the Finance Documents.
- 21.2.2 When acting pursuant to the Finance Documents, the Agent is always acting with binding effect on behalf of the Bondholders. The Agent is never acting as an advisor to the Bondholders or the Issuer. Any advice or opinion from the Agent does not bind the Bondholders or the Issuer.
- 21.2.3 When acting pursuant to the Finance Documents, the Agent shall carry out its duties with reasonable care and skill in a proficient and professional manner.
- 21.2.4 The Agent shall treat all Bondholders equally and, when acting pursuant to the Finance Documents, act with regard only to the interests of the Bondholders as a group and shall not be required to have regard to the interests or to act upon or comply with any direction or request of any other person, other than as explicitly stated in the Finance Documents.

21.2.5 The Agent is always entitled to delegate its duties to other professional parties and to engage external experts when carrying out its duties as agent, without having to first obtain any consent from the Bondholders or the Issuer. The Agent shall however remain liable for any actions of such parties if such parties are performing duties of the Agent under the Finance Documents.

21.2.6 The Issuer shall on demand by the Agent pay all reasonably incurred costs for external experts engaged by it:

- (a) after the occurrence of an Event of Default;
- (b) for the purpose of investigating or considering:
  - (i) an event or circumstance which the Agent reasonably believes is or may lead to an Event of Default; or
  - (ii) a matter relating to the Issuer or the Finance Documents which the Agent reasonably believes may be detrimental to the interests of the Bondholders under the Finance Documents;
- (c) in connection with any Bondholders' Meeting or Written Procedure; and
- (d) in connection with any amendment (whether contemplated by the Finance Documents or not) or waiver under the Finance Documents.

Any compensation for damages or other recoveries received by the Agent from external experts engaged by it for the purpose of carrying out its duties under the Finance Documents shall be distributed in accordance with Clause 17.10 (*Distribution of proceeds*).

21.2.7 The Agent shall, as applicable, enter into agreements with the CSD, and comply with such agreement and the CSD Regulations applicable to the Agent, as may be necessary in order for the Agent to carry out its duties under the Finance Documents.

21.2.8 The Agent may instruct the CSD to split the Bonds to a lower nominal amount in order to facilitate partial redemptions, write-downs or restructurings of the Bonds or in other situations where such split is deemed necessary.

21.2.9 Other than as specifically set out in the Finance Documents, the Agent shall not be obliged to monitor:

- (a) whether an Event of Default or Change of Control has occurred;
- (b) the financial condition of the Issuer and the Group;
- (c) the performance, default or any breach by the Issuer or any other party of its obligations under the Finance Documents; or
- (d) whether any other event specified in any Finance Document has occurred or is expected to occur.

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

21.2.10 The Agent shall:

- (a) review each Compliance Certificate delivered to it to determine that it meets the requirements set out herein and as otherwise agreed between the Issuer and the Agent; and
- (b) verify that the Issuer according to its reporting in the Compliance Certificate meets the relevant financial covenant(s) or tests.

The Issuer shall promptly upon request provide the Agent with such information as the Agent reasonably considers necessary for the purpose of being able to comply with this Clause 21.2.10.

- 21.2.11 Notwithstanding any other provision of the Finance Documents to the contrary, the 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 regulation.
- 21.2.12 If in the Agent's reasonable opinion the cost, loss or liability which it may incur (including reasonable fees to the Agent) in complying with instructions of the Bondholders, or taking any action at its own initiative, will not be covered by the Issuer, the Agent may refrain from acting in accordance with such instructions, or taking such action, until it has received such funding or indemnities (or adequate security has been provided therefor) as it may reasonably require.
- 21.2.13 The Agent shall give a notice to the Bondholders before it ceases to perform its obligations under the Finance Documents by reason of the non-payment by the Issuer of any fee or indemnity due to the Agent under the Finance Documents or the Agency Agreement or if it refrains from acting for any reason described in Clause 21.2.12.
- 21.2.14 Upon the reasonable request by a Bondholder, the Agent shall promptly distribute to the Bondholders any information from such Bondholder which relates to the Bonds (at the discretion of the Agent). The Agent may require that the requesting Bondholder reimburses any costs or expenses incurred, or to be incurred, by the Agent in doing so (including a reasonable fee for the work of the Agent) before any such information is distributed. The Agent shall upon request by a Bondholder disclose the identity of any other Bondholder who has consented to the Agent in doing so.
- 21.2.15 Subject to the restrictions of a non-disclosure agreement entered into by the Agent in connection with these Terms and Conditions, the Agent shall be entitled to disclose to the Bondholders any document, information, event or circumstance directly or indirectly relating to the Issuer or the Bonds. Notwithstanding the foregoing, the Agent may if it considers it to be beneficial to the interests of the Bondholders delay disclosure or refrain from disclosing certain information (save for that any delay in disclosing an Event of Default, which event shall be governed by Clause 17.9.3).

### 21.3 **Limited liability for the Agent**

- 21.3.1 The Agent will not be liable to the Bondholders for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its negligence or wilful misconduct. The Agent shall never be responsible for indirect or consequential loss.

- 21.3.2 The Agent shall not be considered to have acted negligently if it has acted in accordance with advice from or opinions of reputable external experts provided to the Agent or if the Agent has acted with reasonable care in a situation when the Agent considers that it is detrimental to the interests of the Bondholders to delay the action in order to first obtain instructions from the Bondholders.
- 21.3.3 The Agent shall not be liable for any delay (or any related consequences) in crediting an account with an amount required pursuant to the Finance Documents to be paid by the Agent to the Bondholders, provided that the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- 21.3.4 The Agent shall have no liability to the Issuer or the Bondholders for damage caused by the Agent acting in accordance with instructions of the Bondholders given in accordance with the Finance Documents.
- 21.3.5 Any liability towards the Issuer which is incurred by the Agent in acting under, or in relation to, the Finance Documents shall not be subject to set-off against the obligations of the Issuer to the Bondholders under the Finance Documents.

#### 21.4 **Replacement of the Agent**

- 21.4.1 Subject to Clause 21.4.6, the Agent may resign by giving notice to the Issuer and the Bondholders, in which case the Bondholders shall appoint a successor Agent at a Bondholders' Meeting convened by the retiring Agent or by way of Written Procedure initiated by the retiring Agent.
- 21.4.2 Subject to Clause 21.4.6, if the Agent is insolvent or becomes subject to bankruptcy proceedings, the Agent shall be deemed to resign as Agent and the Issuer shall within ten (10) Business Days appoint a successor Agent which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- 21.4.3 A Bondholder (or Bondholders) representing at least ten (10.00) per cent. of the Adjusted Nominal Amount may, by notice to the Issuer (such notice may only be validly given by a Person who is a Bondholder on the Business Day immediately following the day on which the notice is received by the Issuer and shall, if given by several Bondholders, be given by them jointly), require that a Bondholders' Meeting is held for the purpose of dismissing the Agent and appointing a new Agent. The Issuer may, at a Bondholders' Meeting convened by it or by way of Written Procedure initiated by it, propose to the Bondholders that the Agent be dismissed and a new Agent appointed.
- 21.4.4 If the Bondholders have not appointed a successor Agent within ninety (90) days after:
- (a) the earlier of the notice of resignation was given or the resignation otherwise took place; or
  - (b) the Agent was dismissed through a decision by the Bondholders,
- the Issuer shall within thirty (30) days thereafter appoint a successor Agent which shall be an independent financial institution or other reputable company with the necessary resources to act as agent in respect of Market Loans.

- 21.4.5 The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- 21.4.6 The Agent's resignation or dismissal shall only take effect upon the earlier of:
- (a) the appointment of a successor Agent and acceptance by such successor Agent of such appointment and the execution of all necessary documentation to effectively substitute the retiring Agent; and
  - (b) the period pursuant to paragraph (b) of Clause 21.4.4.
- 21.4.7 Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of the Finance Documents and remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Agent. Its successor, the Issuer and each of the Bondholders shall have the same rights and obligations amongst themselves under the Finance Documents as they would have had if such successor had been the original Agent.
- 21.4.8 In the event that there is a change of the Agent in accordance with this Clause 21.4, the Issuer shall execute such documents and take such actions as the new Agent may reasonably require for the purpose of vesting in such new Agent the rights, powers and obligation of the Agent and releasing the retiring Agent from its further obligations under the Finance Documents and the Agency Agreement. Unless the Issuer and the new Agent agree otherwise, the new Agent shall be entitled to the same fees and the same indemnities as the retiring Agent.

## **22. THE PAYING AGENT**

- 22.1 The Issuer appoints the Paying Agent to manage certain specified tasks relating to the Bonds, under these Terms and Conditions, in accordance with the legislation, rules and regulations applicable to the Issuer, the Bonds and/or under the CSD Regulations.
- 22.2 The Paying Agent may retire from its appointment or be dismissed by the Issuer, provided that the Issuer has approved that a commercial bank or securities institution approved by the CSD accedes as new Paying Agent at the same time as the old Paying Agent retires or is dismissed. If the Paying Agent is insolvent, the Issuer shall immediately appoint a new Paying Agent, which shall replace the old Paying Agent as paying agent in accordance with these Terms and Conditions.
- 22.3 The Paying Agent will not be liable to the Bondholders for damage or loss caused by any action taken or omitted by it under or in connection with these Terms and Conditions, unless directly caused by its gross negligence or wilful misconduct. The Paying Agent shall never be responsible for indirect or consequential loss.

## **23. THE CSD**

- 23.1 The Issuer has appointed the CSD to manage certain tasks under these Terms and Conditions and in accordance with the CSD Regulations and the other regulations applicable to the Bonds.

- 23.2 The CSD may retire from its assignment or be dismissed by the Issuer, provided that the Issuer has effectively appointed a replacement CSD that accedes as CSD at the same time as the old CSD retires or is dismissed and provided also that the replacement does not have a negative effect on any Bondholder. The replacing CSD must be authorised to professionally conduct clearing operations and be authorised as a central securities depository in accordance with applicable law.

## **24. NO DIRECT ACTIONS BY BONDHOLDERS**

- 24.1 A Bondholder may not take any action or legal steps whatsoever against any Group Company to enforce or recover any amount due or owing to it pursuant to the Finance Documents, or to initiate, support or procure the winding-up, dissolution, liquidation, company reorganisation (Sw. *företagsrekonstruktion*) or bankruptcy (Sw. *konkurs*) (or their equivalents in any other jurisdiction) of any Group Company in relation to any of the liabilities of such Group Company under the Finance Documents. Such steps may only be taken by the Agent.
- 24.2 Clause 24.1 shall not apply if the Agent has been instructed by the Bondholders in accordance with the Finance Documents to take certain actions but fails for any reason to take, or is unable to take (for any reason other than a failure by a Bondholder to provide documents in accordance with Clause 21.1.2), such actions within a reasonable period of time and such failure or inability is continuing. However, if the failure to take certain actions is caused by the non-payment by the Issuer of any fee or indemnity due to the Agent under the Finance Documents or the Agency Agreement or by any reason described in Clause 21.2.12, such failure must continue for at least forty (40) Business Days after notice pursuant to Clause 21.2.13 before a Bondholder may take any action referred to in Clause 24.1.
- 24.3 The provisions of Clause 24.1 shall not in any way limit an individual Bondholder's right to claim and enforce payments which are due to it under Clause 12.4 (*Mandatory repurchase due to a Change of Control (put option)*) or other payments which are due by the Issuer to some but not all Bondholders.

## **25. TIME-BAR**

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

## **26. NOTICES AND PRESS RELEASES**

### **26.1 Notices**

- 26.1.1 Written notices to the Bondholders made by the Agent will be sent to the Bondholders via the CSD with a copy to the Issuer and the applicable Regulated Market (if any). Any such notice or communication will be deemed to be given or made via the CSD, when sent from the CSD.
- 26.1.2 Written notices to the Bondholders made by the Issuer will be sent to the Bondholders via the Agent or through the CSD with a copy to the Agent and the applicable Regulated Market (if any).
- 26.1.3 Notwithstanding Clause 26.1.1 above and provided that such written notification does not require the Bondholders to take any action under the Finance Documents, the Issuer's written notifications to the Bondholders may be published by the Agent on a relevant information platform only. A notice to the Bondholders shall also be published on the websites of the Issuer and the Agent.
- 26.1.4 Any notice or other communication to be made under or in connection with the Finance Documents:
- (a) if to the Agent, shall be given at the address registered with the Swedish Companies Registration Office (Sw. *Bolagsverket*) on the Business Day prior to dispatch or, if sent by email by the Issuer, to the email address notified by the Agent from time to time;
  - (b) if to the Issuer, shall be given at the address registered with the Irish Companies Registration Office on the Business Day prior to dispatch or if sent by email by the Agent, to the email address notified by the Issuer to the Agent from time to time; and
  - (c) if to the Bondholders, shall be given at their addresses as registered with the CSD, on the Business Day prior to dispatch, and by either courier delivery (if practically possible) or letter for all Bondholders. A notice to the Bondholders shall also be published on the websites of the Issuer and the Agent.
- 26.1.5 The Issuer and the Agent shall each ensure that the other party is kept informed of changes in postal address, e-mail address and telephone numbers and contact persons.
- 26.1.6 Unless otherwise specifically provided, all notices or other communications under or in connection with the Finance Documents between the Agent and the Issuer will be given or made in writing, either by e-mail or by letter and e-mail. Any such notice or communication will be deemed to be given or made as follows:
- (a) if by letter, when delivered at the address of the relevant party;
  - (b) if by e-mail, when received; and
  - (c) if by publication on a relevant information platform, when published.
- 26.1.7 When determining deadlines set out in these Terms and Conditions, the following will apply (unless otherwise stated):
- (a) if the deadline is set out in days, the first day of the relevant period will not be included and the last day of the relevant period will be included;

- (b) if the deadline is set out in weeks, months or years, the deadline will end on the day in the last week or the last month which, according to its name or number, corresponds to the first day the deadline is in force. If such day is not a part of an actual month, the deadline will be the last day of such month; and
- (c) if a deadline ends on a day which is not a Business Day, the deadline is postponed to the next Business Day.

26.1.8 Failure to send a notice or other communication to a Bondholder or any defect in it shall not affect its sufficiency with respect to other Bondholders.

## 26.2 **Press releases**

26.2.1 Any notice that the Issuer or the Agent shall send to the Bondholders pursuant to Clause 5.4, 12.3 (*Early voluntary total redemption (call option (American))*), 12.4 (*Mandatory repurchase due to a Change of Control (put option)*), paragraph (b) of Clause 14.3 or Clauses 17.9.3, 17.9.4, 17.10.4, 18.2.1, 18.3.1, 18.4.14, 19.2, 21.2.13 or 21.4.1 shall also be published by way of press release by the Issuer or the Agent, as applicable.

26.2.2 In addition to Clause 26.2.1, if any information relating to the Bonds, the Issuer or the Group contained in a notice that the Agent may send to the Bondholders under these Terms and Conditions has not already been made public by way of a press release, the Agent shall before it sends such information to the Bondholders give the Issuer the opportunity to issue a press release containing such information. If the Issuer does not promptly issue a press release and the Agent considers it necessary to issue a press release containing such information before it can lawfully send a notice containing such information to the Bondholders, the Agent shall be entitled, but not obligated to issue such press release.

## 27. **FORCE MAJEURE**

27.1 Neither the Agent nor the Paying Agent shall be held responsible for any damage arising out of any legal enactment, or any measure taken by a public authority, or war, strike, lockout, boycott, blockade, natural disaster, insurrection, civil commotion, terrorism or any other similar circumstance (a “**Force Majeure Event**”). The reservation in respect of strikes, lockouts, boycotts and blockades applies even if the Agent or the Paying Agent itself takes such measures, or is subject to such measure.

27.2 Should a Force Majeure Event arise which prevents the Agent or the Paying Agent from taking any action required to comply with these Terms and Conditions, such action may be postponed until the obstacle has been removed.

27.3 The provisions in this Clause 27 apply unless they are inconsistent with the provisions of the CSD Regulations which provisions shall take precedence.

## 28. **GOVERNING LAW AND JURISDICTION**

28.1 These Terms and Conditions, and any non-contractual obligations arising out of or in connection therewith, shall be governed by and construed in accordance with the laws of Sweden.

- 28.2 Subject to Clause 28.3, the courts of Sweden shall have exclusive jurisdiction over matters arising out of or in connection with these Terms and Conditions. The district court of Stockholm (Sw. *Stockholms tingsrätt*) shall be the court of first instance.
- 28.3 Notwithstanding Clause 28.2, the Agent (or the Bondholders, as applicable) shall not be prevented from taking proceedings relating to a dispute in any court of a member state of the European Union under the Brussels Ia Regulation (in accordance with its Chapter II, Sections 1 and 2) or of a State that is a party to the Lugano II Convention (in accordance with Title II, Sections 1 and 2). To the extent allowed by law, the Agent (or the Bondholders, as applicable) may also initiate concurrent proceedings in any number of such jurisdictions.
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## SCHEDULE 1

### FORM OF COMPLIANCE CERTIFICATE

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#### COMPLIANCE CERTIFICATE

To: Nordic Trustee & Agency AB (publ) as Agent  
From: Cavebreak Designated Activity Company as Issuer  
Date: [date]

Dear Sir or Madam,

**Cavebreak Designated Activity Company**  
**Maximum EUR 200,000,000 Senior Secured Callable Floating Rate Bonds 2026/2032**  
**with ISIN: NO0013755520**  
**(the “Bonds”)**

(1) We refer to the terms and conditions for the Bonds (the “**Terms and Conditions**”). This is a Compliance Certificate. Terms defined in the Terms and Conditions have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

[(2) **Incurrence Test**

This is an Incurrence Test in respect of [*describe relevant incurrence of Financial Indebtedness, including the amount*] (the “**Relevant Event**”). We confirm that the Incurrence Test is met and that in respect of the testing date of the Incurrence Test, being [date]:

- (a) The Net Interest Bearing Debt was EUR [●], EBITDA was [●] and therefore the ratio of Net Interest Bearing Debt to EBITDA was [●] (and should be less than 2.50x); and
- (b) no Event of Default is continuing or would occur upon the Relevant Event, in each case calculated in accordance with Clause 15.2 (*Calculation Principles*).

Computations as to compliance with the Incurrence Test are attached hereto.<sup>1</sup><sup>2</sup>

[(3) **Distribution Test**

This is a Distribution Test in respect of [*describe relevant distribution or payment including the amount*]. We confirm that the Distribution Test is met and that in respect of the test date, being [date]:

- (a) The Net Interest Bearing Debt was EUR [●], EBITDA was [●] and therefore the ratio of Net Interest Bearing Debt to EBITDA was [●] (and should be less than 1.50x); and
- (b) no Event of Default is continuing or would result from the expiry of a grace period, the giving of a notice, the making of any determination (or any combination of the foregoing) or from the relevant incurrence, distribution or payment (as applicable),

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<sup>1</sup> To include calculations of the Incurrence Test and any adjustments pursuant to Clause 15.2 (*Calculation principles*).

<sup>2</sup> This section to be used if the Compliance Certificate is delivered in connection with an Incurrence Test.

in each case calculated in accordance with Clause 15.2 (*Calculation Principles*).

Computations as to compliance with the Distribution Test are attached hereto.<sup>3]</sup><sup>4</sup>

[(4) **Guarantor Coverage Test**

We confirm that as of 31 December [*year*]:

- (a) the companies listed in Schedule 1 are Material Group Companies and nominated as new Guarantors pursuant to the Terms and Conditions; and
- (b) the Issuer and the Guarantors account for at least eighty (80.00) per cent. of EBITDA of the Group (disregarding intragroup items and calculated on a *pro forma* basis for the entire Reference Period) and that the Guarantor Coverage Test is therefore met.]<sup>5</sup>

- (5) [We confirm that, so far as we are aware, no Event of Default is continuing.]<sup>6</sup>

**Cavebreak Designated Activity Company**

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

*Authorised signatory*

<sup>3</sup> To include calculations of the Distribution Test and any adjustments pursuant to Clause 15.2 (*Calculation principles*).

<sup>4</sup> This section to be used if the Compliance Certificate is delivered in connection with a Distribution Test.

<sup>5</sup> To be included in when providing the Compliance Certificate in connection with an Annual Report pursuant to Clause 14.2.2 (*Compliance Certificate*).

<sup>6</sup> Should be included in each Compliance Certificate. If this statement cannot be made, the certificate should identify any Event of Default that is continuing and the steps, if any, being taken to remedy it.

**Schedule 1**  
**Material Group Companies**

| Existing Material Group Companies |              |                          |
|-----------------------------------|--------------|--------------------------|
| Legal name                        | Jurisdiction | Reg. no. (or equivalent) |
|                                   |              |                          |
|                                   |              |                          |
|                                   |              |                          |
| New Material Group Companies      |              |                          |
| Legal name                        | Jurisdiction | Reg. no. (or equivalent) |
|                                   |              |                          |
|                                   |              |                          |
|                                   |              |                          |

## SCHEDULE 2

### INTERCREDITOR PRINCIPLES

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These intercreditor principles should be read together with the Terms and Conditions. Unless otherwise defined in this Schedule 2 (*Intercreditor principles*) (the “**Intercreditor Principles**”), terms defined in the Terms and Conditions shall have the same meanings when used in these Intercreditor Principles unless a contrary indication appears.

**Principal  
Definitions:**

“**Bonds Only Transaction Security**” means the security created or purported to be created under the Escrow Account Pledge Agreement.

“**Final Discharge Date**” means the date when all principal, interest and any other costs or outstanding amounts under the Senior Finance Documents have been unconditionally and irrevocably paid and discharged in full and that all commitments under the Senior Finance Documents have expired, been cancelled or terminated.

“**Hedge Counterparty**” means any person who is or becomes a hedge counterparty pursuant to any Hedging Agreement and that has entered into or acceded to the Intercreditor Agreement.

“**Hedging Agreement**” means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by an ICA Group Company and a Hedge Counterparty in connection with protection against or benefit from fluctuation in any rate or price where such exposure arises in the ordinary course of business including foreign exchange, interest or commodities, or in respect of payments to be made under the Senior Finance Documents (excluding for the avoidance of doubt any derivative transaction which in itself is entered into for investment or speculative purposes).

“**Hedging Obligations**” means all present and future moneys, debts and liabilities due, owing or incurred from time to time by the ICA Group Companies to any Hedge Counterparty under or in connection with any Hedging Agreement.

“**ICA Group Companies**” means any Group Companies which have entered into or acceded to the Intercreditor Agreement pursuant to the Senior Finance Documents.

“**Intercompany Debt**” means any loan made or credit granted by an ICA Group Company to any Group Company or any loan made or credit granted to an ICA Group Company from any Group Company.

“**Major Undertakings**” means an undertaking with respect to any Group Company pursuant to any negative pledge undertaking or restriction on financial indebtedness, disposals, mergers, acquisitions, distributions, loans out or guarantees under any Super Senior RCF.

“**Representatives**” means the Super Senior Representative and the Senior Representative.

“**Secured Obligations**” means all present and future liabilities and obligations at any time due, owing or incurred by any Group Company to any Secured Party under the Senior Finance Documents, both actual and contingent.

“**Secured Parties**” means the creditors under the Senior Finance Documents but only if such creditor (or, in the case of a bondholder, its agent) is a party to or has acceded to the Intercreditor Agreement in the appropriate capacity pursuant to the terms of the Intercreditor Agreement, and their respective agents.

“**Security Agent**” means Nordic Trustee & Agency AB (publ) (reg. no. 556882-1879) as security agent for the Secured Parties.

“**Senior Creditor**” means the bondholders and the Agent.

“**Senior Debt**” means all indebtedness outstanding to the Senior Creditors under the Finance Documents.

**“Senior Finance Documents”** means the Finance Documents and the Super Senior Documents.

**“Senior Representative”** means, at any time, the representative representing more than 50.00 per cent of the Senior Debt.

**“Super Senior Creditors”** means each Super Senior RCF Creditor and each Hedge Counterparty.

**“Super Senior Debt”** means (i) all indebtedness outstanding to the Super Senior RCF Creditors (or any of their Affiliates) under the Super Senior Documents and (ii) all indebtedness outstanding to a Hedge Counterparty (if any) under a Hedging Agreement.

**“Super Senior Documents”** means the Super Senior RCF, the Intercreditor Agreement, the Hedging Agreements (if any), the Guarantee and Adherence Agreement, the Transaction Security Documents (save for the Bonds Only Transaction Security) and any other document designated to be a Super Senior Document by the Issuer and the Super Senior Creditors.

**“Super Senior RCF Creditor”** means any person who is or becomes a lender under a Super Senior RCF.

**“Super Senior Representative”** means, at any time, the representative of those Super Senior Creditors holding 50.00 per cent. or more of the aggregate of Super Senior Debt.

**“Transaction Security”** means the security provided to the Secured Parties under the Transaction Security Documents (save for the Bonds Only Transaction Security and, if applicable, any cash cover provided for the Super Senior RCF).

**Background:**

The security securing the Secured Obligations will (save for the Bonds Only Transaction Security and, if applicable, any cash cover provided for the Super Senior RCF) be a single security package which will be held pursuant to relevant law and intercreditor arrangements, and the Security Agent will be appointed as initial security agent to hold the security on behalf of each of the Secured Parties.

**Ranking and Priority:**

Unless expressly provided to the contrary in these intercreditor principles, each of the parties to the Intercreditor Agreement will agree that the Secured Obligations owed by the ICA Group Companies to the Secured Parties and the other relevant parties shall rank in all respects in right and priority of payment in the following order:

- (a) *firstly*, the Super Senior Debt (*pari passu* between all indebtedness under the Super Senior Debt);
- (b) *secondly*, the Senior Debt (*pari passu* between all indebtedness under the Senior Debt);
- (c) *thirdly*, any liabilities raised in the form of Intercompany Debt; and
- (d) *fourthly*, any liabilities raised in the form of Subordinated Loans.

**Transaction Security and Guarantees:**

Unless expressly provided to the contrary in these intercreditor principles, the Transaction Security and the guarantees under the Guarantee and Adherence Agreement will be granted with the following ranking and priority:

- (a) the guarantees and the Transaction Security shall be granted with *first* priority ranking in respect of the Super Senior Debt and the Senior Debt, *pari passu* between the Super Senior Debt and the Senior Debt, but subject always to the allocation of proceeds provision as set out in section “*Application of enforcement proceeds*”;
- (b) the Bonds Only Transaction Security shall rank and secure only the Finance Documents and cash cover may be provided only for the Super Senior RCF; and

- (c) the Intercompany Debt and any Subordinated Loan shall remain unguaranteed and unsecured.

**Payment Block:**

Following a written notice from the Super Senior Representative to the Issuer (with a copy to the Security Agent and the Agent) of (i) acceleration, (ii) that a sanctions event has occurred or (iii) that an event of default (for the avoidance of doubt, after the expiry of any applicable grace period in respect of the default giving rise to the event of default) under the Super Senior Documents relating to (a) a non-payment, (b) a cross-default or cross-acceleration, (c) insolvency, (d) insolvency proceedings, (e) creditors' process, (f) cessation of business, (g) a breach of a Major Undertaking, (h) repudiation and rescission of agreements, (i) breach of a financial covenant, or (j) unlawfulness and invalidity has occurred (a "**Payment Block Event**") and for as long as it is continuing, or up until a written notice from the Super Senior Representative to the contrary, no payments of principal or interest (including buy-backs of Senior Debt) may be made to the Senior Creditors.

A Payment Block Event shall cease to be continuing if no enforcement action or consultation in accordance with the section "*Enforcement*" below has been initiated within 150 days from the occurrence of the relevant Payment Block Event. For the avoidance of doubt, interest shall continue to accrue during such period and the failure to timely make any payments due under the Senior Debt shall constitute an Event of Default and the unpaid amount shall carry default interest.

Until a Payment Block Event has been remedied or waived, any amounts paid under the Senior Debt (despite the Payment Block Event) shall be applied in accordance with section "*Application of enforcement proceeds*".

**Cancellation of  
Super Senior RCF:**

To the extent the Issuer repurchases, amortises or otherwise repays the Bonds whereby the aggregate amount of the Senior Debt outstanding falls below a threshold of the aggregate initial amount of the Senior Debt as specified by the Super Senior RCF Creditor, the Super Senior RCF Creditor may demand repayment and cancellation of the Super Senior RCF *pro rata* with such repurchase, amortisation or other repayment.

**Enforcement:**

If either the Super Senior Creditors or the Senior Creditors wish to issue instructions for enforcement, their Representative (as the case may be) shall deliver a copy of those proposed enforcement instructions (an "**Enforcement Proposal**") to the Security Agent and the Security Agent shall promptly forward such Enforcement Proposal to each other Representative.

If the Security Agent has received conflicting enforcement instructions, the Security Agent shall promptly notify the Representatives and the Representatives shall (unless the Transaction Security and the guarantees have become enforceable as a result of an insolvency event) consult with each other and the Security Agent (as the case may be) in good faith for a period of not more than 30 days (the "**Consultation Period**").

Following an Enforcement Proposal and subject to, *inter alia*, paragraphs (a) and (b) below, the Security Agent will act in accordance with enforcement instructions received from the Senior Representative.

- (a) If (i) no enforcement instructions have been issued to the Security Agent from the Senior Representative within 3 months (or 1 month if an insolvency event has occurred) of the date of the Enforcement Proposal or from the end of the Consultation Period or (ii) the Super Senior Debt has not been discharged in full within 6 months of the date of the Enforcement Proposal or from the end of the

Consultation Period, then the Security Agent will act in accordance with enforcement instructions received from the Super Senior Creditors until the Super Senior Debt has been discharged in full.

- (b) If a Secured Party (acting reasonably) considers that the Security Agent is enforcing the Transaction Security in a manner which is not consistent with the security enforcement objective, such Secured Party shall give notice to the other Secured Parties after which the Representatives and the Security Agent shall consult for a period of 20 days (or such lesser period that the Secured Parties may agree) with a view to agreeing on the manner of enforcement.
- (c) The Senior Representative may only give any enforcement instructions if the proceeds to be received from the proposed enforcement instructions are expected to amount to or exceed the amount of the Super Senior Debt.

**Application of  
Enforcement  
Proceeds:**

The proceeds of any enforcement action (including but not limited to any proceeds received from any direct or indirect realisation or sale by the Security Agent of any assets being subject to Transaction Security, payments under any guarantees or proceeds received in connection with bankruptcy or other insolvency proceedings) shall be paid to the Security Agent for application in the following order (subject to applicable mandatory law):

- (a) *firstly*, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by any Group Company to the Security Agent;
- (b) *secondly*, in or towards payment *pro rata* (and with no preference among them) of unpaid fees, costs, expenses and indemnities payable by any Group Company to the agents under the Senior Debt and the Representatives (in any of their capacities);
- (c) *thirdly*, towards payment *pro rata* (and with no preference among them) of accrued interest unpaid under the Super Senior Documents;
- (d) *fourthly*, towards payment *pro rata* (and with no preference among them) of principal under the Super Senior Documents and any other costs or outstanding amounts under the Super Senior Documents, and any close out amount and any other outstanding amounts to a Hedge Counterparty (if any);
- (e) *fifthly*, towards payment *pro rata* (and with no preference among them) of accrued interest unpaid under the Senior Debt (interest due on an earlier interest payment date to be paid before any interest due on a later interest payment date);
- (f) *sixthly*, towards payment *pro rata* (and with no preference among them) of principal under the Senior Debt and any other costs or outstanding amounts under the Finance Documents;
- (g) *seventhly*, after the Final Discharge Date, towards payment *pro rata* of accrued interest unpaid and principal under the Intercompany Debt;
- (h) *eighthly*, after the Final Discharge Date, towards payment *pro rata* of accrued interest unpaid and principal under the Subordinated Loans; and
- (i) *ninthly*, after the Final Discharge Date, in payment of the surplus (if any) to the relevant Group Company or other person entitled to it.

**Release of  
Transaction Security  
and Guarantees:**

The Security Agent is authorised and may execute on behalf of any Secured Party, in each case without any need for further deferral to or authority from such Secured Party, any release of the Transaction Security and the guarantees created by the Transaction Security Documents, the Guarantee and Adherence Agreement and the Intercreditor Agreement, to the extent that such release is made in accordance with the terms and conditions of the Senior Finance Documents.

The Intercreditor Agreement will, subject to certain conditions, enable a release of Transaction Security in connection with disposals for the purpose of:

- (a) enabling a Group Company to dispose of shares in a Group Company (other than the Issuer) that is subject to Transaction Security provided that Transaction Security is provided over a bank account (other than the Escrow Account) where the cash purchase price following such disposal is deposited (the funds standing to credit on such bank account may be used for the purpose of an acquisition of shares in a target company provided that security over all the shares in such target company are provided to the Secured Parties immediately upon such acquisition); and
- (b) enabling intra-group restructurings, provided that the disposal is made subject to the Transaction Security or, in relation to a merger, that it constitutes a permitted merger under the Senior Finance Documents.

**New Security:**

Any new security, other than the Bonds Only Transaction Security and cash cover provided for the Super Senior RCF, created (and guarantees and indemnities granted), in respect of any Secured Obligation shall be extended to and shared between the Secured Parties on a *pro rata* basis and in accordance with the ranking and priority set forth above.

**Governing law:**

The Intercreditor Agreement shall be governed by English or Swedish law at the option of the Issuer.

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## **SCHEDULE 3**

### **AGREED SECURITY PRINCIPLES**

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1. General legal and statutory limitations, financial assistance, corporate benefit, fraudulent preference, thin capitalisation rules, retention of title claims, employee consultation and approval requirements and similar principles may limit the ability of a Group Company to provide a guarantee or security or enter into subordination arrangements, or may require that such guarantee, security or subordination arrangement is limited by an amount or otherwise, provided that the relevant Group Company must use reasonable endeavours to overcome any such obstacle to the extent possible and practicable and if it can be done at a cost which is not disproportionate to the benefit of the secured parties obtaining the security.
2. Group Companies will not be required to grant guarantees or enter into Transaction Security Documents if to do so would:
  - (i) not be within its legal capacity;
  - (ii) conflict with the fiduciary duties of any of its directors or contravene any legal prohibition or regulatory condition or have the potential to result in a risk of personal or criminal liability on the part of any officer or director (in each case as confirmed by a reputable local legal counsel in such jurisdiction); or
  - (iii) cause it or the Group to incur costs or other disadvantages (including legal fees, registration fees, stamp duty, taxes, notarial fees and other fees or costs directly associated with providing the guarantees and/or granting the security) that in the reasonable opinion of the Super Senior RCF Creditors and/or the security agent are disproportionate to the benefit to the secured parties of obtaining such guarantees or security,provided that the relevant Group Company must use its best endeavours to overcome any such obstacle to the extent possible. It is expressly acknowledged that in certain jurisdictions it may be impossible to give guarantees or to grant security over certain categories of assets in which event such guarantees will not be given and such security will not be granted over such assets.
3. In calculating the Guarantor Coverage Test, (i) any entity with negative EBITDA shall be included in the calculations with zero EBITDA (as applicable), (ii) intra-group items shall be disregarded and (iii) EBITDA for the Group shall be calculated before any IFRS eliminations made on Group level only.
4. The form of each Transaction Security Document shall be negotiated in good faith in accordance with the terms of these Agreed Security Principles (and any market standard in the relevant jurisdiction is thus, to the greatest extent possible under the governing law applicable in respect of the relevant Transaction Security Document, to be disregarded to the extent the relevant issue is already regulated by these Agreed Security Principles).
5. Any rights of set-off will only be exercisable in respect of matured obligations and after the occurrence of an Event of Default, subject to any applicable restrictions set out in the Finance Documents.
6. No perfection action will be required in jurisdictions where obligors are not located.
7. Transaction Security will not be enforceable until an Event of Default has occurred and is continuing and the relevant creditor or creditor representative has given notice of acceleration under the relevant finance document.
8. The Issuer and the Group Companies shall be permitted to pay and receive interest and, provided that it does not affect the validity and enforceability of the Transaction Security, principal in relation to any Material Intragroup Loan being subject to Transaction Security, unless an Event of Default has occurred and is continuing.
9. Save for as may be required in order to have a fully valid, perfected and enforceable security, the Transaction Security Documents will not operate so as to prevent transactions which are otherwise not restricted under the Finance Documents or require additional consents or authorisations.
10. The terms of the Transaction Security should not be such that they are unduly burdensome or interfere unreasonably with the ability of the relevant Group Company to conduct its operations and business in the ordinary course.
11. Any notice of pledge or similar to be delivered in connection with the granting of Transaction Security or guarantee by another party (other than a Group Company) shall (other than in respect of the Escrow Account Pledge Agreement) only be required to be delivered where it is customary in the relevant jurisdiction to do so or as required for fully valid, perfected and enforceable security, and any acknowledgement, countersignature or confirmation in respect of such notice shall only be required to be collected and delivered by the relevant Group Company on a best effort basis. The same principles shall apply to registrations to be made in connection with any perfection of Transaction Security.

12. Notwithstanding anything to the contrary in these Agreed Security Principles, the Transaction Security Documents shall not create new commercial obligations and shall not contain additional or duplicate representations, warranties or undertakings to those set out in the Finance Documents that are not required for the creation, perfection, validity, enforceability, effectiveness or preservation of the relevant Transaction Security as such (and, for the avoidance of doubt, precluding any representations, warranties or undertakings which only ensure the maintenance of the value of the underlying assets subject to the relevant Transaction Security). There shall not be any repetition or extension for clauses set out in the Senior Finance Documents such as those relating to cost and expenses, indemnities, stamp duty, tax gross up, distribution of proceeds, notices and release of security.
13. Guarantees and Transaction Security Documents relating to any new Guarantors will (to the extent relevant) be in the form consistent with those previously agreed in relation to existing Guarantors to the greatest extent possible under the applicable governing law and unless the Agreed Security Principles stipulate otherwise.
14. Subject to these Agreed Security Principles, all steps necessary to perfect, or legal formalities required to be carried out in connection with, any of the Transaction Security, will be completed as soon as practicable and, in any event, within the time periods which are customary or otherwise specified by applicable law.
15. Notwithstanding anything to the contrary in the Finance Documents, if the security agent is not satisfied that it does not need to be resident, incorporated (including by way of a branch office), registered or authorised in any jurisdiction or deposit any funds in any jurisdiction where the security agent, at the time the relevant Transaction Security shall be granted, is not resident, incorporated (including by way of a branch office), registered or authorised in, the security agent shall have a right to (without consent from any secured party) waive the requirement in any Finance Document to grant that Transaction Security. Satisfaction in this respect should either be through the inclusion of such statement in a legal opinion or by any other legal statement from a well reputable law firm which in form and substance is acceptable to the security agent (acting reasonably).
16. The security agent shall have a right to consult with and rely on the instruction of local reputable legal counsel in a relevant jurisdiction in order to verify and confirm compliance with the Agreed Security Principles in relation to any Transaction Security and/or Guarantee. Any reasonable costs for such local legal counsel shall be borne or reimbursed by the Issuer against invoice and the security agent is required to seek the Issuer's confirmation or approval prior to engaging such local legal counsel.

We hereby certify that the above Terms and Conditions are binding upon ourselves.

**The Issuer**

Cavebreak Designated Activity Company

/s/ Wayne Arthur

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Name: Wayne Arthur

We hereby undertake to act in accordance with the above Terms and Conditions to the extent they refer to us.

**The Agent**

Nordic Trustee & Agency AB (publ)

/s/ August Ahlin

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Name: August Ahlin