UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 13D/A

Under the Securities Exchange Act of 1934

(Amendment No. 4)*

REYNOLDS AMERICAN INC.

(Name of Issuer)

Common stock (par value $0.0001 per share)
(Title of Class of Securities)

761713106
(CUSIP Number)

Nicola Snook
British American Tobacco p.l.c.
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With a copy to:

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New York, New York 10019
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(Name, Address and Telephone Number of Persons
Authorized to Receive Notices and Communications)

January 16, 2017
(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. ☐

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

1	NAMES OF REPORTING PERSONS Brown & Williamson Holdings, Inc.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP	(a) ☐ (b) ☐
3	SEC USE ONLY	
4	SOURCE OF FUNDS (SEE INSTRUCTIONS) OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e) &bbsp;	☐
6	CITIZENSHIP OR PLACE OF ORGANIZATION Delaware	

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER 0
	8	SHARED VOTING POWER 446,668,038
	9	SOLE DISPOSITIVE POWER 0
	10	SHARED DISPOSITIVE POWER 446,668,038

11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 446,668,038	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS)	☐
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 31.3%	
14	TYPE OF REPORTING PERSON (SEE INSTRUCTIONS) CO	

1	NAMES OF REPORTING PERSONS Louisville Securities Limited	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP	(a) ☐ (b) ☐
3	SEC USE ONLY	
4	SOURCE OF FUNDS (SEE INSTRUCTIONS) AF, WC, BK and OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)	☐
6	CITIZENSHIP OR PLACE OF ORGANIZATION England and Wales	
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER 0
	8	SHARED VOTING POWER 601,368,171*
	9	SOLE DISPOSITIVE POWER 0
	10	SHARED DISPOSITIVE POWER 601,368,171*
11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 601,368,171*	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS)	☐
13	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11) 42.2%	
14	TYPE OF REPORTING PERSON (SEE INSTRUCTIONS) CO	

* Consists of an aggregate of 446,668,038 shares of common stock ("Common Stock") of Reynolds American Inc. (the "Issuer") held by Brown & Williamson Holdings, Inc. ("B&W") and 154,700,133 shares of Common Stock held by Louisville Securities Limited ("Louisville"). B&W is a wholly owned subsidiary of BATUS Holdings Inc., which is a wholly owned subsidiary of Louisville.

1	NAMES OF REPORTING PERSONS British American Tobacco p.l.c.	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP	(a) ☐ (b) ☐
3	SEC USE ONLY	
4	SOURCE OF FUNDS (SEE INSTRUCTIONS) AF, WC, BK and OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)	☐
6	CITIZENSHIP OR PLACE OF ORGANIZATION England and Wales	

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7	SOLE VOTING POWER 0
	8	SHARED VOTING POWER 601,368,171*
	9	SOLE DISPOSITIVE POWER 0
	10	SHARED DISPOSITIVE POWER 601,368,171*

11	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 601,368,171*	
12	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS)	☐
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14	TYPE OF REPORTING PERSON (SEE INSTRUCTIONS) CO	

* Consists of an aggregate of 446,668,038 shares of common stock ("Common Stock") of Reynolds American Inc. (the "Issuer") held by Brown & Williamson Holdings, Inc. ("B&W") and 154,700,133 shares of Common Stock held by Louisville Securities Limited ("Louisville"). B&W is a wholly owned subsidiary of BATUS Holdings Inc., which is a wholly owned subsidiary of Louisville. Louisville is a wholly owned subsidiary of British-American Tobacco (Holdings) Limited, which is a wholly owned subsidiary of B.A.T. Industries p.l.c., which is a wholly owned subsidiary of Weston (2009) Limited, which is a wholly owned subsidiary of British American Tobacco (2009) Limited, which is a wholly owned subsidiary of British American Tobacco (1998) Limited, which is a wholly owned subsidiary of British American Tobacco p.l.c.

This statement constitutes Amendment No. 4 ("Amendment No. 4") to the Schedule 13D (the "Original Schedule 13D" and, as amended, the "Amended Schedule 13D") filed with the U.S. Securities and Exchange Commission ("SEC") on June 19, 2015, amended by Amendment No. 1 filed on July 26, 2016, Amendment No. 2 filed on September 15, 2016 and Amendment No. 3 filed on October 21, 2016, relating to shares of the common stock, par value $0.0001 per share (the "Common Stock"), of Reynolds American Inc. (the "Issuer"), a North Carolina corporation, beneficially owned by Brown & Williamson Holdings, Inc. ("B&W"), Louisville Securities Limited ("Louisville") and British American Tobacco p.l.c. ("BAT"). This Amendment No. 4 amends the Amended Schedule 13D on behalf of the undersigned to furnish the information set forth herein. Except as set forth below, all Items of the Amended Schedule 13D remain unchanged. Capitalized terms used but not defined in this Amendment No. 4 have the meanings assigned to them in the Original Schedule 13D.

ITEM 3. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION

Item 3 of the Amended Schedule 13D is hereby amended to add the following at the end thereof:

The description of the Merger (as defined in Item 4) set forth in Item 4 below is incorporated by reference in its entirety into this Item 3. It is anticipated that funding for the cash portion of the consideration payable pursuant to the Merger will be obtained from existing cash resources and debt financing, including the issuance of new bonds and the Facilities Agreement (as defined below).

On January 16, 2017, B.A.T. International Finance p.l.c., a public limited company incorporated under the laws of England and Wales and a direct wholly owned subsidiary of BAT, and B.A.T Capital Corporation, a Delaware corporation and an indirect wholly owned subsidiary of BAT, as original borrowers, BAT, as guarantor, HSBC Bank plc, as agent, HSBC Bank USA, National Association, as U.S. agent, and the financial institutions party thereto, as mandated lead arrangers and banks, entered into a $25.0 billion term loan facilities agreement (the "Facilities Agreement") for the purpose of financing the Merger, paying fees and expenses and refinancing an existing revolving credit facility of the Issuer. The Facilities Agreement comprises four credit facilities: (i) a $15.0 billion bridge facility which, subject to two six-month extension options exercisable at BAT's option, matures on the date that is 12 months after the earlier of (x) the date that the Merger is consummated and (y) the business day that is six months after the date of the Facilities Agreement (the "Start Date"), (ii) a $5.0 billion bridge facility which, subject to two six-month extension options exercisable at BAT's option, matures on the date that is 24 months after the Start Date, (iii) a $2.5 billion term loan which matures on the date that is 36 months after the Start Date and (iv) a $2.5 billion term loan which matures on the date that is 60 months after the date of the Facilities Agreement. To the extent the bridge facilities are drawn to finance the cash portion of the consideration payable pursuant to the Merger, BAT intends to refinance the bridge loans through issuances of new bonds in due course.

This summary of the Facilities Agreement does not purport to be complete and is qualified in its entirety by reference to the Facilities Agreement filed as Exhibit 99.13 to this Amendment No. 4 and incorporated by reference in its entirety into this Item 3.

ITEM 4. PURPOSE OF TRANSACTION

Item 4 of the Amended Schedule 13D is hereby amended to add the following at the end thereof:

On January 16, 2017, BAT, BATUS Holdings Inc. ("BATUS"), a Delaware corporation and an indirect wholly owned subsidiary of BAT, Flight Acquisition Corporation ("Merger Sub"), a North Carolina corporation and an indirect wholly owned subsidiary of BAT and the Issuer entered into an Agreement and Plan of Merger (the "Merger Agreement"), pursuant to which Merger Sub will merge with and into the Issuer (the "Merger") and all the outstanding shares of Common Stock (other than shares owned by BAT and its subsidiaries and shares held by stockholders who have perfected and not withdrawn a demand for appraisal rights) will be converted into the right to receive (i) $29.44 in cash, without interest, and (ii) 0.5260 of an American depositary share of BAT ("BAT ADS"), each BAT ADS representing, as of the date hereof, two of BAT's ordinary shares.

Consummation of the Merger is subject to several customary conditions, including obtaining certain regulatory approvals, effectiveness of the registration statement relating to BAT's ordinary shares to be issued pursuant to the Merger and represented by BAT ADSs and obtaining an affirmative vote for the Merger from shareholders of BAT and of the Issuer, including the approval by a majority of the votes cast on the proposed Merger by holders of shares of the Issuer's capital stock not owned by BAT or its subsidiaries. Consummation of the Merger is not subject to a financing condition. Under the terms of the Merger Agreement, BAT is required to vote, and to cause all of its applicable subsidiaries (including B&W and Louisville) to vote, all shares of Common Stock owned by such entity in favor of the Merger, and the Issuer is required to cause all of its applicable subsidiaries to vote all shares of the Issuer's capital stock owned by such subsidiary in favor of the Merger.

A copy of the Merger Agreement has been included as Exhibit 99.12 to this Amendment No. 4 to provide investors with information regarding its terms. It is not intended to provide any other factual information about the Issuer, BAT or any of their respective subsidiaries or affiliates. The representations, warranties and covenants contained in the Merger Agreement were made only for purposes of that agreement and as of specific dates; were made solely for the benefit of the parties to the Merger Agreement; may be subject to limitations agreed upon by the parties thereto, including being qualified by confidential disclosures; may not have been intended to be statements of fact, but rather, as a method of allocating contractual risk and governing the contractual rights and relationships between the parties to the Merger Agreement; and may be subject to standards of materiality applicable to the parties that differ from those applicable to investors. Investors should not rely on the representations, warranties or covenants or any descriptions thereof as characterizations of the actual state of facts or condition of the Issuer, BAT or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in the Issuer's public disclosures.

It is anticipated that upon the consummation of the Merger, the officers of the Issuer and the directors of the Merger Sub at the effective time of the Merger will become the officers and directors of the surviving corporation, until the earlier of their resignation or removal or until their respective successors are duly elected and qualified, as the case may be.

Upon the consummation of the Merger, the Amended and Restated Articles of Incorporation of the Issuer and the Bylaws of Merger Sub as of the effective time of the Merger will become the Certificate of Incorporation and Bylaws of the surviving corporation until amended in accordance with applicable law.

Upon completion of the Merger, the Common Stock will cease to be quoted on the New York Stock Exchange and will be eligible for termination of registration pursuant to Section 12(g)(4) of the Exchange Act of 1934.

This summary of the Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the Merger Agreement filed as Exhibit 99.12 to this Amendment No. 4, and is incorporated by reference in its entirety into this Item 4. A copy of the press release ("Press Release") issued by BAT on January 17, 2017 announcing the execution of the Merger Agreement is filed as Exhibit 99.14 to this Amendment No. 4, and is incorporated by reference into this Item 4.

ITEM 5. INTEREST IN SECURITIES OF THE ISSUER

Item 5 of the Amended Schedule 13D is hereby amended by deleting the last sentence of paragraph (a) thereof and replacing it in its entirety with the following sentence:

The B&W owned shares comprise approximately 31.3% of the outstanding shares of Common Stock, the Louisville owned shares comprise approximately 10.8% of the outstanding shares of Common Stock and the Shares comprise approximately 42.2% of the outstanding shares of Common Stock.

ITEM 6. CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO SECURITIES OF THE ISSUER

Item 6 of the Schedule 13D is hereby supplemented by incorporating by reference in its entirety the description of the Facilities Agreement set forth in Item 3 above and the description of the Merger set forth in Item 4 above.

ITEM 7. MATERIAL TO BE FILED AS EXHIBITS

Exhibit 99.12 Agreement and Plan of Merger, dated January 16, 2017, 2017, by and among British American Tobacco p.l.c., BATUS Holdings Inc., Flight Acquisition Corporation and Reynolds American Inc.
Exhibit 99.13 Term Loan Facilities Agreement, dated January 16, 2017, 2017, by and among B.A.T. International Finance p.l.c. and B.A.T Capital Corporation, as original borrowers, BAT, as guarantor, HSBC Bank plc, as agent, HSBC Bank USA, National Association, as U.S. agent, and the financial institutions party thereto, as mandated lead arrangers and banks
Exhibit 99.14 Press Release, issued by British American Tobacco p.l.c., dated January 17, 2017

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

January 17, 2017

Brown & Williamson Holdings, Inc.

By: /s/ Timothy J. Hazlett
Name: Timothy J. Hazlett
Title: Director

Louisville Securities Limited

By: /s/ Steve Dale
Name: Steve Dale
Title: Director

British American Tobacco p.l.c.

By: /s/ Nicola Snook
Name: Nicola Snook
Title: Company Secretary

EXHIBIT INDEX

Exhibit Number	Description
99.12	Agreement and Plan of Merger, dated January 16, 2017, by and among British American Tobacco p.l.c., BATUS Holdings Inc., Flight Acquisition Corporation and Reynolds American Inc.
99.13	Term Loan Facilities Agreement, dated January 16, 2017, by and among B.A.T. International Finance p.l.c. and B.A.T Capital Corporation, as original borrowers, BAT, as guarantor, HSBC Bank plc, as agent, HSBC Bank USA, National Association, as U.S. agent, and the financial institutions party thereto, as mandated lead arrangers and banks
99.14	Press Release, issued by British American Tobacco p.l.c., dated January 17, 2017

Exhibit 99.12

AGREEMENT AND PLAN OF MERGER

among

BRITISH AMERICAN TOBACCO P.L.C.,

BATUS HOLDINGS INC.,

FLIGHT ACQUISITION CORPORATION

and

REYNOLDS AMERICAN INC.

Dated as of January 16, 2017

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AGREEMENT AND PLAN OF MERGER (this "Agreement"), dated as of January 16, 2017, among British American Tobacco p.l.c., a public limited company incorporated under the laws of England and Wales ("Parent"), BATUS Holdings Inc., a Delaware corporation and an indirect wholly owned subsidiary of Parent ("BATUS" and, together with Parent, the "Parent Entities"), Flight Acquisition Corporation, a North Carolina corporation and an indirect wholly owned subsidiary of Parent ("Sub"), and Reynolds American Inc., a North Carolina corporation (the "Company").

WHEREAS as of the date hereof, Parent, together with certain of its direct and indirect subsidiaries, owns 601,368,171 shares of Company Common Stock;

WHEREAS the board of directors of the Company (the "Company Board"), having received the unanimous recommendation of the transaction committee (the "Transaction Committee") of the Company Board, which Transaction Committee is comprised exclusively of all of the Other Directors (as defined in the Governance Agreement, dated as of July 30, 2004, among Parent, Brown & Williamson Tobacco Corporation, a Delaware corporation and an indirect wholly owned subsidiary of Parent, and the Company (as amended from time to time, the "Governance Agreement")), has adopted the plan of merger contained in this Agreement (the "Plan of Merger"), whereby Sub shall be merged with and into the Company (the "Merger"), and recommended that the holders of Company Capital Stock approve the Plan of Merger, in each case on the terms and subject to the conditions set forth in this Agreement;

WHEREAS the board of directors of Sub (the "Sub Board") has adopted the Plan of Merger and recommended that the sole shareholder of Sub adopt and approve the Plan of Merger, in each case on the terms and subject to the conditions set forth in this Agreement;

WHEREAS the board of directors of Parent (the "Parent Board") has approved the Plan of Merger and the other Transactions (including the issuance of American depositary shares of Parent ("Parent ADSs") in accordance with the Deposit Agreement, with each such Parent ADS representing, as of the date of this Agreement, two ordinary shares, par value 25 pence per share, of Parent (the "Parent Ordinary Shares"), and the issuance of the Parent Ordinary Shares underlying the Parent ADSs pursuant to the Merger) and recommended that the holders of Parent Ordinary Shares approve the Transactions, in each case on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS the Parent Entities, Sub and the Company desire to make certain representations, warranties, covenants and agreements in connection with the Merger and also to prescribe various conditions to the Merger.

NOW, THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE I

The Merger

SECTION 1.01. The Merger. On the terms and subject to the conditions set forth in this Agreement, and in accordance with the North Carolina Business Corporations Act, as amended (the "NCBCA"), Sub shall be merged with and into the Company at the Effective Time. At the Effective Time, as a result of the Merger, the separate corporate existence of Sub shall cease and the Company shall continue as the surviving corporation (the "Surviving Corporation"). The Merger and the other transactions contemplated by this Agreement are referred to in this Agreement collectively as the "Transactions".

SECTION 1.02. Closing. The closing (the "Closing") of the Merger shall take place at the offices of Cravath, Swaine & Moore LLP, 825 Eighth Avenue, New York, New York 10019 at 10:00 a.m. on the third Business Day following the satisfaction (or, to the extent permitted herein and by applicable Law, waiver) of the conditions set forth in Article VII (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction (or, to the extent permitted herein and by applicable Law, waiver) of those conditions), or at such other place, time and date as shall be agreed in writing between Parent and the Company; provided, however, that if and to the extent necessary to consummate all or any portion of the Financing (as determined by Parent in its sole discretion), the Closing shall instead occur on any Business Day specified by Parent (on no less than three Business Days' prior written notice to the Company) during the five Business Day period beginning on the date of the satisfaction (or, to the extent permitted herein and by applicable Law, waiver) of the conditions set forth in Article VII (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction (or, to the extent permitted herein and by applicable Law, waiver) of those conditions). The date on which the Closing occurs is referred to in this Agreement as the "Closing Date".

SECTION 1.03. Effective Time. Prior to the Closing, the Parent Entities shall prepare, and, subject to the terms and conditions set forth in this Agreement, on the Closing Date the Parent Entities and the Company shall file with the Secretary of State of the State of North Carolina, the articles of merger relating to the Merger (the "Articles of Merger") executed in accordance with the relevant provisions of the NCBCA and shall make all other filings or recordings required under the NCBCA as soon as practicable on or after the Closing Date. The Merger shall become effective at such time as the Articles of Merger are duly filed with such Secretary of State of the State of North Carolina, or at such other time as Parent and the Company shall agree and specify in the Articles of Merger (the time the Merger becomes effective being the "Effective Time").

SECTION 1.04. Effects. The Merger shall have the effects set forth in Section 55-11-06 of the NCBCA.

SECTION 1.05. Change in Structure. At any time prior to the Effective Time, Parent may change the structural method of effecting the combination with the Company contemplated hereby (including by making appropriate amendments to the provisions of this Article I and of Article II to reflect such alternative structure and to provide for such other

changes necessitated thereby) if and to the extent Parent deems such alternative structure to be desirable; provided, however, that no such change shall (a) alter or change in any way (including as to the amount or kind) the Merger Consideration, (b) adversely affect the Tax treatment of holders of Company Common Stock or Company Stock Awards as a result of the Transactions, (c) reasonably be expected to delay the Closing, (d) adversely affect any party's ability to satisfy any of the conditions set forth in Article VII or (e) require any further Parent Shareholder Approval in the event that the Parent Shareholder Approval has already been obtained, or require any additional action by the holders of Company Common Stock (other than Parent and any Parent Subsidiary); provided, further, that Parent shall provide at least three Business Days notice to the Company prior to making any change pursuant to this Section 1.05.

SECTION 1.06. Articles of Incorporation and Bylaws of the Surviving Corporation. (a) The Company Charter as in effect immediately prior to the Effective Time shall be the articles of incorporation of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable Law.

(b) The Bylaws of Sub as in effect immediately prior to the Effective Time shall be the bylaws of the Surviving Corporation until thereafter changed or amended as provided therein or by applicable Law, except that references to the name of Sub shall be replaced by the name of the Surviving Corporation.

SECTION 1.07. Directors. The directors of Sub immediately prior to the Effective Time shall be the directors of the Surviving Corporation, until the earlier of their resignation or removal or until their respective successors are duly elected and qualified, as the case may be.

SECTION 1.08. Officers. The officers of the Company immediately prior to the Effective Time shall be the officers of the Surviving Corporation, until the earlier of their resignation or removal or until their respective successors are duly elected or appointed and qualified, as the case may be.

ARTICLE II

Effect of the Merger on the Capital Stock of the Constituent Corporations

SECTION 2.01. Effect on Capital Stock. At the Effective Time, by virtue of the Merger and without any action on the part of the Company, the Parent Entities, Sub or the holder of any shares of Company Capital Stock or any shares of capital stock of Sub:

(a) Capital Stock of Sub. Each share of capital stock of Sub issued and outstanding immediately prior to the Effective Time shall be converted into and become one fully paid and nonassessable share of common stock, par value $0.01 per share, of the Surviving Corporation ("Surviving Common Stock").

(b) Parent-Owned Company Common Stock. Notwithstanding anything to the contrary herein, each issued and outstanding share of Company Common Stock that is owned by Parent or any Parent Subsidiaries immediately prior to the Effective Time shall

cease to be outstanding and automatically be canceled at the Effective Time, and no consideration shall be delivered or deliverable in exchange therefor (including, for the avoidance of doubt, pursuant to Section 2.01(c)).

(c) Conversion of Company Common Stock. Subject to Sections 2.01(b), 2.01(g) and 2.02(i), each share of Company Common Stock issued and outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the Company, the Parent Entities, Sub or the holder of any shares of Company Capital Stock, be converted into the right to receive the following consideration (collectively, the "Merger Consideration"):

(i) the number of Parent ADSs equal to (A) the Exchange Ratio divided by (B) the ADS Ratio (the "Per Share Stock Consideration"), subject to adjustment in accordance with Section 2.01(h); and

(ii) $29.44 in cash, without interest (the "Per Share Cash Consideration"), subject to adjustment in accordance with Section 2.01(h).

(d) Series B Preferred Stock. Notwithstanding anything to the contrary herein, each share of Series B Preferred Stock issued and outstanding immediately prior to the Effective Time will remain issued and outstanding as one share of Series B Preferred Stock, par value $0.01 per share, of the Surviving Corporation.

(e) Discharge of BATUS's Obligations. BATUS's obligation to deliver the Merger Consideration may be discharged by BATUS causing such Merger Consideration or any part thereof to be provided by Parent or any Parent Subsidiary to the Exchange Agent, for the benefit of the holders of Company Common Stock, in accordance with the terms and subject to the conditions set forth in this Article II; provided, however, that nothing in this Section 2.01(e) shall relieve BATUS of its obligations hereunder.

(f) Cancelation of Company Common Stock. As of the Effective Time, all shares of Company Common Stock converted into the right to receive the Merger Consideration pursuant to Section 2.01(c) shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of (i) a certificate that immediately prior to the Effective Time represented any such shares of Company Common Stock (each, a "Certificate") or (ii) any such shares of Company Common Stock held in book-entry form ("Book-Entry Shares"), in each case, other than any Certificates or Book-Entry Shares representing Dissenting Shares, shall cease to have any rights with respect thereto, except the right to receive (i) the Merger Consideration upon surrender of such Certificate or Book-Entry Share in accordance with Section 2.02, (ii) any dividends or other distributions in accordance with Section 2.02(c) and (iii) any cash to be paid in lieu of any fractional entitlements to Parent ADSs in accordance with Section 2.02(i), in each case without interest.

(g) Dissenting Shares. Notwithstanding anything to the contrary herein, shares of Company Common Stock issued and outstanding immediately prior to the Effective Time (other than shares of Company Common Stock owned by Parent or any Parent

Subsidiaries) and which are held by holders of Company Common Stock who shall have not voted, or caused or permitted to be voted, any shares of Company Common Stock in favor of adoption of the Plan of Merger at the Company Shareholders Meeting and who shall have properly asserted (and not lost or effectively withdrawn) his, her or its appraisal rights for such shares in accordance with Article 13 of the NCBCA (any such shares of Company Common Stock, collectively, the "Dissenting Shares") shall not be converted into or represent the right to receive the Merger Consideration pursuant to Section 2.01(c). Such holders of Dissenting Shares instead shall only be entitled to receive such consideration as may be determined to be due with respect to such Dissenting Shares pursuant to and subject to the requirements of Article 13 of the NCBCA and in accordance with the provisions of this Section 2.01(g), except that all Dissenting Shares held by holders of Company Common Stock who shall have failed to perfect or who effectively shall have withdrawn or otherwise lost his, her or its right to dissent from the Merger under Article 13 of the NCBCA shall cease to be Dissenting Shares, holders of such shares shall not be entitled to appraisal of such shares of Company Common Stock under Article 13 of the NCBCA and such shares shall be deemed to be converted into and represent the right to receive the Merger Consideration, without any interest thereon, in the manner provided for in Section 2.01(c). From and after the Effective Time, the Dissenting Shares shall automatically be cancelled and shall cease to exist and any holder of Dissenting Shares shall cease to have any rights with respect thereto except (i) as provided in Article 13 of the NCBCA, (ii) as provided in the prior sentence and (iii) the right to receive payment of any dividends or other distributions with a record date prior to the Effective Time that may have been declared or made by the Company on such Dissenting Shares in accordance with the terms of this Agreement or prior to the date of this Agreement and which remain unpaid at the Effective Time. The Company shall (i) give Parent prompt notice of any notice or demand for appraisal of any shares of Company Common Stock or any withdrawals of such demands received by the Company, (ii) give Parent the opportunity to direct and control all negotiations and proceedings with respect to any such demands (provided that Parent shall reasonably consult with the Company with respect to any such proceedings and the Company shall not be required to pay any amounts prior to the Closing in settlement of any such negotiations or proceedings) and (iii) not, without the prior written consent of Parent, make any payment with respect to, or settle, offer to settle or otherwise negotiate any such demands. Each holder of Dissenting Shares who becomes entitled to payment for such shares pursuant to Article 13 of the NCBCA shall receive cash payment therefor from the Surviving Corporation from funds provided by BATUS (but only after the amount of the consideration required therefor shall have been agreed upon or finally determined pursuant to the NCBCA).

(h) Adjustments to Prevent Dilution. If at any time during the period between the date of this Agreement and the Effective Time, any change in the number or class of outstanding Parent Ordinary Shares, Parent ADSs or Company Common Stock shall occur by reason of any reclassification, recapitalization, split or combination (including a reverse stock split), exchange, merger, consolidation or readjustment of shares, or any stock dividend thereon with a record date during such period, or any similar transaction or event, the Exchange Ratio, the Per Share Stock Consideration, the Per Share Cash Consideration, the RSU Exchange Ratio and any other similarly dependent items, as the

case may be, shall be appropriately and equitably adjusted to provide the holders of Company Common Stock the same economic effect as contemplated by this Agreement prior to such event. Nothing in this Section 2.01(h) shall be construed as permitting the Company, any Parent Entity or Sub to take any action or enter into any transaction otherwise prohibited by this Agreement.

SECTION 2.02. Exchange of Shares. (a) Exchange Agent. Not less than 30 days prior to the anticipated Effective Time, Parent shall appoint a bank or trust company reasonably acceptable to the Company to act as exchange agent (the "Exchange Agent") for the purpose of exchanging shares of Company Common Stock for the Merger Consideration. As of the Effective Time, (i) Parent, on behalf of BATUS, shall have deposited with or provided to the Exchange Agent, or shall have caused to be deposited with or provided to the Exchange Agent, in escrow for the benefit of the holders of Company Common Stock, the aggregate number of Parent ADSs (rounded up to the nearest whole number) to be issued as Merger Consideration, and (ii) BATUS shall have deposited with or provided to the Exchange Agent, in escrow for the benefit of the holders of Company Common Stock, an amount of cash in U.S. dollars equal to the product of (x) the number of shares of Company Common Stock issued and outstanding immediately prior to the Effective Time (other than shares of Company Common Stock owned by Parent or any Parent Subsidiaries and any Dissenting Shares) and (y) the Per Share Cash Consideration. Parent's issuance of the Parent Ordinary Shares underlying the Parent ADSs to be issued as Merger Consideration to the depositary of the Parent ADSs shall be in its capacity as nominee, in which case beneficial ownership to such Parent ADSs shall vest at the Effective Time to the applicable holders of Company Common Stock; provided, however, that the vesting of legal title to such Parent ADSs to such holders of Company Common Stock shall be conditional upon compliance by such holders with Section 2.02(b). Following the Effective Time, the Parent Entities shall promptly deposit with the Exchange Agent, from time to time as needed, cash in U.S. dollars sufficient to pay any dividends and other distributions pursuant to Section 2.02(c). All cash and Parent ADSs deposited with or provided to the Exchange Agent by or on behalf of BATUS shall be referred to in this Agreement as the "Exchange Fund". The Parent Entities will instruct the Exchange Agent to pay the Merger Consideration out of the Exchange Fund in accordance with the terms of this Agreement, and the Exchange Fund shall not be used for any purpose other than the delivery of the Merger Consideration and of any dividends and other distributions pursuant to Section 2.02(c).

(b) Exchange Procedures. As soon as reasonably practicable after the Effective Time, but in any event no later than three Business Days following the Effective Time:

(i) the Parent Entities shall cause the Exchange Agent to mail to each holder of record of shares of Company Common Stock represented by Certificates as of the Effective Time, (A) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to such Certificates shall pass, only upon delivery of such Certificates to the Exchange Agent and shall be in customary form as approved by the Parent Entities and the Company) and (B) instructions for surrendering such Certificates in exchange for Merger Consideration, including cash in lieu of fractional entitlements to Parent ADSs pursuant to Section 2.02(i). Upon the surrender of such Certificates for cancelation to the Exchange Agent together with such letter of transmittal, duly executed and completed and such other documents as may reasonably be

required pursuant to such instructions, the holder of such Certificates shall be entitled to receive as promptly as practicable in exchange therefor (1) the number of Parent ADSs representing, in the aggregate, the whole number of Parent ADSs, if any, that such holder has the right to receive as Merger Consideration and (2) an amount of cash, in U.S. dollars, that such holder has the right to receive as Merger Consideration, including cash payable in lieu of fractional entitlements to Parent ADSs pursuant to Section 2.02(i) and dividends and other distributions payable pursuant to Section 2.02(c) (less any required Tax withholding), pursuant to this Article II. In the event of a transfer of ownership of a Certificate that is not registered in the transfer records of the Company, payment may be made to a person other than the person in whose name such Certificate so surrendered is registered, if such Certificate shall be properly endorsed or otherwise be in proper form for transfer, and the person requesting such payment shall pay any transfer or other Taxes required by reason of the payment to a person other than such registered holder or establish to the satisfaction of Parent that such Tax has been paid or is not applicable. Until surrendered as contemplated by this Section 2.02, each share of Company Common Stock represented by a Certificate converted into the right to receive Merger Consideration pursuant to Section 2.01(c) shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender the Merger Consideration, cash in lieu of fractional entitlements to Parent ADSs pursuant to Section 2.02(i) and any dividends or other distributions pursuant to Section 2.02(c) as contemplated by this Article II. No dividends or other distributions declared or made with respect to Parent Ordinary Shares and Parent ADSs with a record date after the Effective Time will be paid to the holder of any unsurrendered Certificate with respect to the shares of Parent ADSs issuable upon surrender thereof and in respect of such holder's Book-Entry Shares until after the surrender of such Certificate in accordance with this Article II. No interest shall be paid or accrue on the cash payable upon surrender of any Certificate.

(ii) the Parent Entities shall cause the Exchange Agent to mail to each holder of record of Book-Entry Shares as of the Effective Time (other than any Book-Entry Shares representing Dissenting Shares) (A) a notice of the effectiveness of the Merger, (B) a statement reflecting the whole number of Parent ADSs, if any, in the name of such record holder that such holder has the right to receive as Merger Consideration and (C) an amount in cash, in U.S. dollars, that such holder has the right to receive as Merger Consideration, including cash payable in lieu of fractional entitlements to Parent ADSs pursuant to Section 2.02(i) and dividends and other distributions payable pursuant to Section 2.02(c) (less any required Tax withholding), pursuant to this Article II. Holders of Company Common Stock who hold all of their shares of Company Common Stock as Book-Entry Shares will not be required to take any action to receive the Merger Consideration in respect of such shares. Any holder of both shares of Company Common Stock represented by Certificates and by Book-Entry Shares will be required to complete the exchange procedures outlined in paragraph (i) above for such Certificates before such holder will receive the Merger Consideration, including any cash payable in lieu of fractional entitlements to Parent ADSs pursuant to Section 2.02(i) and dividends and other distributions payable pursuant to Section 2.02(c) (less any required Tax withholding), pursuant to this Article II.

(c) No Further Ownership Rights in Company Common Stock. The Merger Consideration paid in accordance with the terms of this Article II shall be deemed to have been paid in full satisfaction of all rights pertaining to the shares of Company Common Stock converted into the right to receive Merger Consideration pursuant to Section 2.01(c), subject, however, to the Surviving Corporation's obligation to pay any dividends or make any other distributions with a record date prior to the Effective Time that may have been declared or made by the Company on such shares of Company Common Stock in accordance with the terms of this Agreement or prior to the date of this Agreement and which remain unpaid at the Effective Time, and after the Effective Time there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of shares of Company Common Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, any Certificates are presented to the Surviving Corporation or the Exchange Agent for any reason, they shall be canceled and exchanged as provided in this Article II.

(d) Investment of Exchange Fund. The Exchange Agent shall invest any cash included in the Exchange Fund, as directed by BATUS, on a daily basis; provided that (i) such investments will be in obligations of, or guaranteed by, the United States of America or rated A-1 or P-1 or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation, respectively, and (ii) no gain or loss thereon shall affect the amounts payable to the holders of Company Common Stock following completion of the Merger pursuant to this Article II and the Parent Entities shall take all actions necessary to ensure that the Exchange Fund includes cash sufficient to satisfy BATUS's obligation under this Article II. Subject to the Parent Entities' respective obligations pursuant to this Article II, any interest and other income resulting from such investments shall be paid to BATUS.

(e) Termination of Exchange Fund. Any portion of the Exchange Fund that remains undistributed to the holders of Company Common Stock after one year after the Effective Time shall be delivered upon demand to BATUS, as nominee for any holder of Company Common Stock who has not theretofore complied with this Article II, and any such holder of Company Common Stock shall thereafter look only to BATUS, or if BATUS has insufficient funds to satisfy any such claim, Parent, for payment of its claim for Merger Consideration, any cash in lieu of fractional entitlements to Parent ADSs and any dividends or other distributions to which such holder is entitled pursuant to this Article II, in each case without any interest thereon and subject to applicable Law. If any Certificate or Book-Entry Share has not been surrendered prior to five years after the Effective Time (or immediately prior to such earlier date on which Merger Consideration in respect of such Certificate or Book-Entry Share would otherwise escheat to or become the property of any Governmental Entity), any such Parent ADSs, cash, dividends or other distributions in respect of such Certificate or Book-Entry Share shall, to the extent permitted by applicable Law, become the property of the Surviving Corporation, free and clear of all claims or interest of any person previously entitled thereto; provided that, to the extent that any such Parent ADSs in respect of such Certificate or Book-Entry Share cannot become the property of the Surviving Corporation under applicable Law, such Parent ADSs shall be sold, on behalf of such holders of Company Common Stock, and the proceeds shall become the property of the Surviving Corporation, free and clear of all claims or interest of any person previously entitled thereto.

(f) No Liability. None of Parent, BATUS, Sub, the Company or the Exchange Agent shall be liable to any person in respect of any portion of the Exchange Fund delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law.

(g) Lost Certificates. If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if required by the Surviving Corporation, the posting by such person of a bond in such reasonable amount as the Surviving Corporation may direct as indemnity against any claim that may be made against it with respect to such Certificate, the Surviving Corporation will cause the Exchange Agent to deliver in exchange for such lost, stolen or destroyed Certificate the applicable Merger Consideration, any cash in lieu of fractional entitlements to Parent ADSs and any dividends or other distributions to which such holder is entitled pursuant to this Article II.

(h) Withholding Rights. Notwithstanding anything to the contrary herein, Parent, any Parent Subsidiary or the Exchange Agent, as applicable, shall be entitled to deduct and withhold from the consideration otherwise payable to any holder of Company Common Stock pursuant to this Agreement any amounts that may be required to be deducted and withheld with respect to the making of such payment under the Internal Revenue Code of 1986, as amended (the "Code"), or under any provision of state, local or foreign Tax Law. Any such amounts deducted and withheld shall be treated for all purposes of this Agreement as having been paid to such holder of Company Common Stock. Notwithstanding the above, if Parent determines that any deduction or withholding is required in respect of a payment pursuant to this Agreement and the Transactions contemplated herein, the parties hereto shall cooperate with one another and use reasonable efforts to reduce or eliminate such deduction or withholding to the extent allowed under applicable Law.

(i) No Fractional Shares. No certificates, American depositary receipts or scrip representing fractional Parent ADSs shall be distributed upon the conversion of Company Common Stock pursuant to Section 2.01, no dividends or other distributions of Parent shall relate to such fractional Parent ADS interests and such fractional Parent ADS interests will not entitle the owner thereof to vote or to any rights of a shareholder of Parent. All fractional entitlements to a Parent ADS to which a single record holder of Company Common Stock would be otherwise entitled to receive shall be aggregated by the Exchange Agent and rounded to three decimal points. In lieu of such fractional Parent ADS entitlements, the Parent Entities shall pay to each holder of a Certificate (upon surrender thereof as provided in this Article II) or Book-Entry Share an amount in cash in U.S. dollars, without interest, rounded to the nearest cent, as determined below. As promptly as practicable after the Effective Time, the Exchange Agent shall determine the excess of (i) the aggregate number of Parent ADSs (rounded up to the nearest whole number) to be issued as Merger Consideration over (ii) the aggregate whole number of Parent ADSs to be distributed to holders of Certificates or Book-Entry Shares pursuant to the provisions of this Article II and after giving effect to this Section 2.02(i) (such excess being herein referred to as the "Excess Shares"). As promptly as practicable after the Effective Time, the Exchange Agent, as agent for the applicable holders of Certificates or Book-Entry Shares, shall sell the Excess Shares at then-prevailing prices on the New York Stock Exchange (the "NYSE"), all in the manner provided herein. The sale of the Excess Shares by the Exchange Agent shall be executed on the NYSE and shall be executed in round lots to the extent practicable. Until the net proceeds

of any such sale or sales have been distributed to such holders of Certificates or Book-Entry Shares, the Exchange Agent shall hold such proceeds in escrow for the benefit of such holders. The net proceeds of any such sale or sales of Excess Shares to be distributed to such holders of Certificates or Book-Entry Shares shall be reduced by any and all commissions, transfer Taxes and other out-of-pocket transaction costs, as well as any expenses, of the Exchange Agent incurred in connection with such sale or sales. The Exchange Agent shall determine the portion of such net proceeds (subject to customary rounding) to which each applicable holder of Certificates or Book-Entry Shares shall be entitled, if any, by multiplying the amount of the net proceeds from the sale of Excess Shares on the NYSE as contemplated above by a fraction, the numerator of which is the amount of the fractional Parent ADS interest to which such holder of Certificates or Book-Entry Shares is entitled (after taking into account all Certificates and Book-Entry Shares exchanged by such holder) and the denominator of which is the aggregate amount of fractional Parent ADS interests to which all applicable holders of Certificates or Book-Entry Shares are entitled. As soon as practicable after the determination of the amount of cash to be paid to such holders of Certificates or Book-Entry Shares with respect to any fractional Parent ADS interests, the Exchange Agent shall promptly pay such amounts, subject to customary rounding, to such holders subject to and in accordance with this Section 2.02(i). The parties hereto acknowledge that payment of the cash consideration in lieu of issuing fractional Parent ADS entitlements is not separately bargained-for consideration but merely represents a mechanical rounding off as the Deposit Agreement does not permit the issuance of fractional Parent ADSs.

ARTICLE III

Representations and Warranties of the Company

The Company represents and warrants to the Parent Entities and Sub that, except (a) as set forth in the disclosure letter dated the date of this Agreement (with specific reference to the particular Section or subsection of this Agreement to which the information set forth in such disclosure letter relates; provided, however, that any information set forth in one section of such disclosure letter shall be deemed to apply to each other Section or subsection thereof or hereof to which its relevance is reasonably apparent) delivered by the Company to the Parent Entities and Sub prior to the execution of this Agreement (the "Company Disclosure Letter") or (b) as disclosed in the Filed Company SEC Documents (excluding any disclosures contained in any part of any Filed Company SEC Document entitled "Risk Factors", disclosures set forth in any "Forward-Looking Statements" disclaimer or any other disclosures set forth in the Filed Company SEC Documents to the extent they are cautionary, non-specific or predictive in nature; it being understood that any factual information contained within such headings, disclosures or statements shall not be excluded):

SECTION 3.01. Organization, Standing and Power. Each of the Company and each subsidiary of the Company (each, a "Company Subsidiary") is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized (in the case of good standing, to the extent such jurisdiction recognizes such concept), except, in the case of the Company Subsidiaries, where the failure to be so organized, existing or in good standing, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect. Each of the Company and each Company Subsidiary

has all requisite corporate power and authority and has obtained all governmental franchises, licenses, permits, authorizations, variances, exemptions, orders, registrations, clearances and approvals (collectively, "Permits") necessary to enable it to own, operate, lease or otherwise hold its properties and assets and to conduct its businesses as presently conducted, other than such Permits the lack of which, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect. The Company and each Company Subsidiary is duly qualified or licensed to do business in each jurisdiction where the nature of its business or the ownership or leasing of its properties makes such qualification or license necessary, other than jurisdictions in which the failure to be so qualified or licensed, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect. The Company has made available to Parent true and complete copies of the Amended and Restated Articles of Incorporation of the Company (the "Company Charter") and the Amended and Restated Bylaws of the Company (the "Company Bylaws"), in each case as amended through the date of this Agreement.

SECTION 3.02. The Company Subsidiaries; Equity Interests. (a) All of the outstanding shares of capital stock of, or other equity, voting or ownership interests in, each Company Subsidiary have been validly issued and are fully paid and, to the extent applicable, nonassessable, and are owned by the Company, by another Company Subsidiary or by the Company and another Company Subsidiary, free and clear of all pledges, claims, liens, charges, mortgages, encumbrances, hypothecation, assignments and security interests of any kind or nature whatsoever (collectively, "Liens") and free and clear of any other restriction (including any restriction on the right to vote, sell or dispose of such capital stock or other equity, voting or ownership interests), except for restrictions imposed by applicable securities Laws or pursuant to the Governance Agreement.

(b) Except for the capital stock of, or other equity, voting or ownership interests in, the Company Subsidiaries, neither the Company nor any Company Subsidiary owns, as of the date of this Agreement, directly or indirectly, any capital stock of, or other equity, voting or ownership interests in, or any interest convertible into or exchangeable for any capital stock of, or other equity, voting or ownership interests in, any person.

SECTION 3.03. Capital Structure. (a) The authorized capital stock of the Company consists of 3,200,000,000 shares of common stock, par value $0.0001, of the Company (the "Company Common Stock") and 100,000,000 shares of preferred stock, par value $0.01 per share (such preferred stock, together with the Company Common Stock, the "Company Capital Stock"), of which 4,000,000 shares are designated as Series A Junior Participating Preferred Stock (the "Series A Preferred Stock") and 1,000,000 shares are designated as Series B Preferred Stock (the "Series B Preferred Stock"). At the close of business on January 12, 2017, (i) 1,425,934,305 shares of Company Common Stock were outstanding, none of which were held by any Company Subsidiary, (ii) 7,073,244 shares of Company Common Stock were reserved and available for issuance pursuant to the Company Stock Plans in respect of outstanding awards, including (A) Company RSUs with respect to 137,686 shares of Company Common Stock, (B) 390,449 shares of Company Common Stock with respect to Company DSUs that are settled in Company Common Stock and 246,049 shares of Company Common Stock with respect to Company DSUs that are settled in cash, and (C) Company Performance Shares with respect to 6,299,060 shares of Company Common Stock, assuming achievement of applicable performance

goals at maximum level, (iii) no shares of Series A Preferred Stock were outstanding and (iv) 1,000,000 shares of Series B Preferred Stock were issued and outstanding, all of which were held by a Company Subsidiary. Except as set forth above, at the close of business on January 12, 2017, no shares of capital stock of, or other equity, voting or ownership interests in, the Company were issued, reserved for issuance or outstanding. All outstanding shares of Company Capital Stock are, and all such shares that may be issued prior to the Effective Time will be when issued, duly authorized, validly issued, fully paid and nonassessable and not subject to or issued in violation of any purchase option, call option, right of first refusal, preemptive right, subscription right or any similar right under any provision of the NCBCA, the Company Charter, the Company Bylaws or any Contract to which the Company is a party or otherwise bound (other than any Contracts to which Parent or any Parent Subsidiary is a party or otherwise bound). There is no Indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which holders of Company Capital Stock may vote ("Company Voting Debt"). Except as set forth above, as of the date of this Agreement there are no options, warrants, rights, convertible or exchangeable securities, other securities, "phantom" stock rights, stock appreciation rights, stock-based performance units, commitments, Contracts, arrangements or undertakings of any kind to which the Company or any Company Subsidiary is a party or by which any of them is bound (other than any Contracts, arrangements or undertakings to which Parent or any Parent Subsidiary is a party or by which any of them is bound) (x) other than as may be required by the Governance Agreement, obligating the Company or any Company Subsidiary to issue, grant, deliver or sell, or cause to be issued, granted, delivered or sold, additional shares of capital stock of or other equity, voting or ownership interests in, or any security convertible or exercisable for or exchangeable into any capital stock of, or other equity, voting or ownership interest in, the Company or any Company Subsidiary or any Company Voting Debt, (y) obligating the Company or any Company Subsidiary to issue, grant, sell, extend or enter into any such option, warrant, call, right, security, unit, commitment, Contract, arrangement or undertaking or (z) that give any person the right to receive any economic benefit or right similar to or derived from the economic benefits and rights accruing to holders of the capital stock of the Company or any Company Subsidiary. As of the date of this Agreement, there are not any outstanding contractual obligations of the Company or any Company Subsidiary to (i) repurchase, redeem or otherwise acquire any shares of capital stock of, or other equity, voting or ownership interests in, the Company or any Company Subsidiary or (ii) vote or dispose of any shares of capital stock of, or other equity, voting or ownership interest in, any Company Subsidiaries.

(b) During the period from the close of business on January 12, 2017 to the date of this Agreement, there have been no issuances, distributions or dividends by the Company of any shares of capital stock of, or other equity, voting or ownership interests in, the Company other than issuances of shares of Company Common Stock in connection with the vesting or settlement of Company Stock Awards in accordance with their terms. To the Knowledge of the Company, there are no irrevocable proxies and no voting agreements with respect to any shares of the capital stock or other voting securities of the Company or any Company Subsidiary, other than pursuant to the Governance Agreement.

SECTION 3.04. Authority; Execution and Delivery; Enforceability. (a) The Company has all requisite corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the Transactions, subject, in the case of

the Merger, to receipt of the Company Shareholder Approval. The execution and delivery by the Company of this Agreement, the performance by it of its obligations hereunder and the consummation by the Company of the Transactions have been or will be duly authorized by all necessary corporate action on the part of the Company, subject, in the case of the Merger, to receipt of the Company Shareholder Approval. The Company has duly executed and delivered this Agreement, and, assuming this Agreement constitutes a valid and binding obligation of the Parent Entities and Sub, this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except, in each case, as enforcement may be limited by bankruptcy, insolvency, reorganization or similar Laws affecting creditors' rights generally and by general principles of equity.

(b) The Company Board, having received the unanimous recommendation of the Transaction Committee, at a meeting duly called and held, duly adopted resolutions (i) adopting this Agreement, the Plan of Merger and the other Transactions, (ii) determining that the terms of the Merger and the other Transactions are fair to and in the best interests of the Company and its shareholders (other than Parent and its affiliates), (iii) recommending that the Company's shareholders approve the Plan of Merger (the "Company Recommendation") and (iv) declaring that this Agreement and the Plan of Merger are advisable, which resolutions have not been subsequently rescinded, modified or withdrawn in any way except as permitted by Section 5.02. The Company is not subject to the restrictions set forth in Article 9 or Article 9A of the NCBCA, and no other "fair price", "moratorium", "control share acquisition" or other similar antitakeover statute or regulation enacted under state or Federal Laws in the United States applicable to the Company is applicable to this Agreement, the Merger and the other Transactions. To the Knowledge of the Company, no other state takeover statute or similar statute or regulation applies or purports to apply to the Company with respect to this Agreement, the Merger or any other Transaction.

(c) The only votes of holders of any class or series of Company Capital Stock necessary to approve this Agreement and the Plan of Merger are the approval of the Plan of Merger by the holders of a majority of the outstanding shares of Company Capital Stock entitled to vote thereon (the "Company Shareholder Approval") and by the holders of a majority of the outstanding shares of Company Common Stock entitled to vote thereon and present (in person or by proxy) and voting at the Company Shareholders Meeting that are not owned, directly or indirectly, by Parent, any Parent Subsidiary or any Company Subsidiary (the "Unaffiliated Shareholder Approval" and, together with the Company Shareholder Approval, the "Required Company Shareholder Approvals"). The Required Company Shareholder Approvals are the only approvals required by the holders of Company Capital Stock, or any of them, to consummate the Merger.

SECTION 3.05. No Conflicts; Consents. (a) The execution and delivery by the Company of this Agreement and the performance by it of its obligations hereunder do not, and the consummation of the Merger and the other Transactions and compliance with the terms hereof and thereof will not (i) conflict with, or result in any violation of any provision of, the Company Charter, the Company Bylaws or the comparable organizational documents of any Company Subsidiary (assuming the Company Shareholder Approval is obtained), (ii) conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancelation or acceleration of any obligation under,

or loss of a material benefit under, or to increased, additional, accelerated or guaranteed rights or entitlements of any person under, or result in the creation of any Lien upon any of the properties or assets of the Company or any Company Subsidiary under, any provision of any material contract, commitment, obligation, lease, license, indenture, note, debenture, bond, guarantee, agreement, permit, concession, franchise or other instrument (a "Contract") to which the Company or any Company Subsidiary is a party or by which any of their respective properties or assets is bound (other than any material Contracts to which Parent or any Parent Subsidiary is a party or by which any of their respective properties or assets is bound) or (iii) conflict with, or result in any violation of any provision of, subject to the filings and other matters referred to in Section 3.05(b), any judgment, order or decree ("Judgment") or statute, law, ordinance, rule or regulation ("Law"), in each case applicable to the Company or any Company Subsidiary or their respective properties or assets (assuming that the Company Shareholder Approval is obtained), other than, in the case of clauses (ii) and (iii) above, any such items that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect (it being agreed that for purposes of this Section 3.05(a), effects resulting from or arising in connection with the execution, delivery or performance of this Agreement, as set forth in clause (d) of the definition of the term "Material Adverse Effect", will not be excluded in determining whether a Company Material Adverse Effect has occurred or would reasonably be expected to occur) and would not prevent or materially impair the ability of the Company to perform its obligations hereunder or consummate the Merger.

(b) No consent, waiver, approval, license, Permit, order or authorization ("Consent") of or from, or registration, declaration, notice or filing with or made to any domestic or foreign (whether national, Federal, state, provincial, local or otherwise) government or any court of competent jurisdiction, administrative agency, taxing authority or commission or other governmental authority or instrumentality, domestic or foreign (a "Governmental Entity") or the expiry of any related waiting period is required to be obtained or made by or with respect to the Company or any Company Subsidiary in connection with the execution, delivery and performance by the Company of this Agreement or the consummation of the Transactions, other than (i) compliance with and filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") and any other mandatory or appropriate merger control filings and notifications in respect of the Transactions, (ii) the filing with the Securities and Exchange Commission (the "SEC") of (A) a proxy statement relating to the approval of this Agreement by the Company's shareholders (as amended or supplemented from time to time, the "Proxy Statement"), (B) a Rule 13e-3 Transaction Statement on Schedule 13E-3 relating to the Merger (the "Schedule 13E-3") and (C) such reports under Section 13 and Section 16 of the Securities Exchange Act of 1934, as amended (the "Exchange Act") as may be required in connection with this Agreement, the Merger and the other Transactions, (iii) the filing of the Articles of Merger with the Secretary of State of the State of North Carolina and appropriate documents with the relevant authorities of the other jurisdictions in which the Company is qualified to do business, (iv) such filings with and approvals of the Bureau of Alcohol, Tobacco, Firearms and Explosives, state licensing authorities and state taxing authorities as are required to consummate the Transactions, (v) compliance with and such filings as may be required under applicable Environmental Laws and (vi) such other items that the failure of which to obtain or make, individually or in the aggregate, would not reasonably be expected to have a Company Material Adverse Effect (it being agreed that for purposes of this Section 3.05(b), effects resulting from or arising in connection with the execution and delivery of this Agreement, as set

forth in clause (d) of the definition of the term "Material Adverse Effect", will not be excluded in determining whether a Company Material Adverse Effect has occurred or would reasonably be expected to occur) and would not prevent or materially impair the ability of the Company to perform its obligations hereunder or consummate the Merger.

SECTION 3.06. SEC Documents; Undisclosed Liabilities. (a) The Company has furnished or filed all reports, schedules, forms, statements and other documents (including exhibits and other information incorporated therein) required to be furnished or filed with the SEC by the Company since January 1, 2015 (such documents, together with any documents filed with the SEC during such period by the Company on a voluntary basis on a Current Report on Form 8-K, being referred to collectively as the "Company SEC Documents").

(b) Each Company SEC Document (i) at the time filed (or if amended or superseded by a filing or amendment prior to the date of this Agreement or the Closing Date, then at the time of such filing or amendment), complied as to form in all material respects with the requirements of the Sarbanes-Oxley Act of 2002, as amended (the "Sarbanes-Oxley Act"), the Exchange Act and the Securities Act of 1933, as amended (the "Securities Act"), as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable to such Company SEC Document, and (ii) did not at the time it was filed (or if amended or superseded by a filing or amendment prior to the date of this Agreement or the Closing Date, then at the time of such filing or amendment) contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The consolidated financial statements of the Company included in the Company SEC Documents comply as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with United States generally accepted accounting principles ("GAAP") (except, in the case of unaudited interim financial statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present in all material respects the consolidated financial position of the Company and its consolidated subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods shown (subject, in the case of unaudited interim financial statements, to normal year-end audit adjustments). Each of the principal executive officer of the Company and the principal financial officer of the Company (or each former principal executive officer of the Company and each former principal financial officer of the Company, as applicable) has made all certifications required by Sections 302 and 906 of the Sarbanes-Oxley Act and the related rules and regulations of the SEC and the NYSE with respect to the Company SEC Documents and the statements contained in such certifications are complete and correct. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in the Sarbanes-Oxley Act.

(c) Except as set forth in the Company SEC Documents filed by the Company with the SEC and publicly available prior to the date of this Agreement (the "Filed Company SEC Documents"), or as incurred in the ordinary course of business since the date of the last balance sheet included in the Filed Company SEC Documents, neither the Company nor any Company Subsidiary has any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) that are required by GAAP to be set forth on a consolidated balance

sheet of the Company and its consolidated subsidiaries or in the notes thereto and that, individually or in the aggregate, have had or would reasonably be expected to have a Company Material Adverse Effect.

(d) The Company maintains a system of "internal control over financial reporting" (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act) sufficient to provide reasonable assurance (i) that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP, consistently applied, (ii) that transactions are executed only in accordance with the authorization of management and (iii) regarding prevention or timely detection of the unauthorized acquisition, use or disposition of the Company's properties or assets that could have a material effect on the Company's financial statements.

(e) The "disclosure controls and procedures" (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) utilized by the Company are reasonably designed to ensure that all information (both financial and non-financial) required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and that all such information required to be disclosed is accumulated and communicated to the management of the Company, as appropriate, to allow timely decisions regarding required disclosure and to enable the principal executive officer and principal financial officer of the Company to make the certifications required under the Exchange Act with respect to such reports. To the Knowledge of the Company, as of the date of this Agreement, none of the Company SEC Documents is the subject of ongoing SEC review or outstanding SEC investigation and there are no outstanding or unresolved comments received from the SEC with respect to any of the Company SEC Documents.

(f) Neither the Company nor any of the Company Subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar Contract (including any Contract or arrangement relating to any transaction or relationship between or among the Company and any of the Company Subsidiaries, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or person, on the other hand, or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K under the Exchange Act)), where the result, purpose or intended effect of such Contract is to avoid disclosure of any material transaction involving, or material liabilities of, the Company or any of the Company Subsidiaries in the Company's or such Company Subsidiary's published financial statements or other Company SEC Documents.

(g) Since January 1, 2016, none of the Company, the Company's independent accountants, the Company Board or the audit committee of the Company Board has received any oral or written notification of any (i) "significant deficiency" in the internal controls over financial reporting of the Company, (ii) "material weakness" in the internal controls over financial reporting of the Company or (iii) fraud, whether or not material, that involves management or other employees of the Company who have a significant role in the internal controls over financial reporting of the Company.

(h) Except for Lorillard, Inc., none of the Company Subsidiaries is, or has at any time since January 1, 2015, been, subject to the reporting requirements of Sections 13(a) and 15(d) of the Exchange Act.

(i) The Company is, and since January 1, 2015 has been, in compliance in all material respects with all applicable listing and corporate governance rules and requirements of the NYSE.

SECTION 3.07. Disclosure Documents. (a) Each document required to be filed by the Company with the SEC or required to be distributed or otherwise disseminated to the Company's shareholders in connection with the Merger and the other Transactions, including the Proxy Statement and the Schedule 13E-3, and any amendments or supplements thereto, when filed, distributed or disseminated, as applicable, will comply as to form in all material respects with the applicable requirements of the Securities Act and the Exchange Act and the rules and regulations of the SEC thereunder.

(b) (i) At the time the Proxy Statement or any amendment or supplement thereto is first mailed to holders of Company Capital Stock, and at the time such shareholders vote on adoption of this Agreement, the Proxy Statement, as amended or supplemented, if applicable, will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading and (ii) at the time the Schedule 13E-3 or any amendment or supplement thereto becomes effective, the Schedule 13E-3, as amended or supplemented, will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except that no representation or warranty is made by the Company in this Section 3.07 with respect to statements made or incorporated by reference therein based on information supplied by any Parent Entity or Sub specifically for inclusion or incorporation by reference in such documents.

(c) None of the information supplied or to be supplied by the Company, any Company Subsidiary or the Company's Representatives for inclusion or incorporation by reference in the Form F-4 will, at the time the Form F-4 is filed with the SEC, at any time it is amended or supplemented and at the time it is declared effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances in which they were made, not misleading. None of the information supplied or to be supplied by the Company, any Company Subsidiary or the Company's Representatives for inclusion or incorporation by reference in the Parent Circular or the Parent Prospectus will, at the time the Parent Circular is first mailed to holders of Parent Ordinary Shares, at the time the Parent Prospectus is first published, at the time of any amendment or supplement of the Parent Circular or the Parent Prospectus and at the time of the Parent Shareholders Meeting, contain any information which is not in accordance with the facts or which omits anything likely to affect the import of such information.

SECTION 3.08. Absence of Certain Changes or Events. During the period since January 1, 2016, (a) other than in connection with the Transactions, the Company has conducted

its business in the ordinary course consistent with past practice in all material respects and (b) there has not been any change, effect, event, circumstance, development or occurrence that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect.

SECTION 3.09. Taxes. (a) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, each of the Company and the Company Subsidiaries has duly filed all U.S. Federal, state, local and foreign Tax Returns required to be filed by any of them, taking into account any extensions of time within which to file (all such Tax Returns being accurate and complete) and has duly paid or made provisions for the payment of all Taxes that have been incurred or are due or claimed to be due from them by Federal, state, foreign or local taxing authorities (other than Taxes that are not yet delinquent or that are being contested in good faith, have not been finally determined and are covered by adequate reserves in accordance with GAAP in the Filed Company SEC Documents).

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, neither the Company nor any of the Company Subsidiaries has agreed to or granted any extension or waiver of the limitation period applicable to any Taxes or Tax Returns, which extension or waiver is currently in effect (other than pursuant to extensions of time to file Tax Returns obtained in the ordinary course of business).

(c) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, each of the Company and the Company Subsidiaries has properly and timely withheld or collected and timely paid over to the appropriate taxing authority (or each is properly holding for such timely payment) all amounts of Taxes required to be withheld, collected and paid over by applicable Law.

(d) Neither the Company nor any of the Company Subsidiaries has engaged in a transaction that constitutes a "listed transaction" for purposes of Section 6011 of the Code and the applicable Treasury Regulations thereunder (or any similar provision of state, local or foreign Tax Law).

(e) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, no written claim has been made in the past three years by a taxing authority in a jurisdiction where the Company or any Company Subsidiary does not file Tax Returns that any of them is or may be subject to Tax by such jurisdiction.

SECTION 3.10. Benefits and Labor Matters; ERISA Compliance. (a) Section 3.10(a) of the Company Disclosure Letter sets forth a true and complete list, as of the date of this Agreement, of each material Company Benefit Plan. The Company has made available to Parent true and complete copies of (i) each material Company Benefit Plan, including any amendment thereto (except that, for Company Benefit Plans that are expressed in form documents that are identical or virtually identical, for more than one participant, the Company has made available the form of such Company Benefit Plan), or, in the case of any unwritten material Company Benefit Plan, a description thereof, (ii) the most recent annual report on Form 5500 (or any comparable form) filed with the U.S. Internal Revenue Service (the "IRS") (or any comparable Governmental Entity) with respect to each material Company Benefit

Plan (if any such report was required), (iii) the most recent summary plan description for each material Company Benefit Plan for which such summary plan description is required, (iv) each trust agreement and group annuity contract relating to each material Company Benefit Plan (if any) and (v) the most recent financial statements and actuarial reports for each material Company Benefit Plan (if any).

(b) Each Company Benefit Plan that is intended to be "qualified" within the meaning of Section 401(a) of the Code (or qualified or registered under any comparable provision under applicable foreign Law) has received a favorable determination letter from the IRS (or any comparable Governmental Entity) or is entitled to rely upon a favorable advisory or opinion letter issued by the IRS (or any comparable Governmental Entity), and, to the Knowledge of the Company, no fact, development or event has occurred or exists since the date of such determination, advisory or opinion letter that would be reasonably likely to result in the loss of the qualified status of any such Company Benefit Plan.

(c) Except for matters that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect, (i) no Company Benefit Plan which is subject to Title IV of ERISA, Section 302 of ERISA, Section 412 of the Code or Section 4971 of the Code (or any comparable provisions under applicable foreign Law) (a "Company Pension Plan") has failed to meet any "minimum funding standards", as applicable (as such terms are defined in Section 302 of ERISA or Section 412 of the Code), whether or not waived, (ii) none of the Company, any Company Subsidiary, any officer of the Company or any Company Subsidiary or any Company Benefit Plans which are subject to ERISA, including the Company Pension Plans, any trust created thereunder or, to the Knowledge of the Company, any trustee or administrator thereof, has engaged in a "prohibited transaction" (as such term is defined in Section 406 of ERISA or Section 4975 of the Code, whether or not subject to ERISA) or any other breach of fiduciary responsibility that could subject the Company, any Company Subsidiary or any officer of the Company or any Company Subsidiary to the Tax or penalty on prohibited transactions imposed by the Code, ERISA or other applicable Law, (iii) within the six-year period ending on the date of this Agreement, no Company Pension Plans or related trusts have been terminated, nor is there any intention or expectation to terminate any Company Pension Plans or related trusts, (iv) no Company Pension Plans or related trusts are the subject of any proceeding by any person, including any Governmental Entity, that would be reasonably expected to result in a termination of any Company Pension Plan or related trust and (v) there has not been any "reportable event" (as that term is defined in Section 4043 of ERISA, whether or not subject to ERISA) with respect to any Company Pension Plan during the last six years as to which the 30-day advance-notice requirement has not been waived.

(d) Neither the Company nor any Commonly Controlled Entity with respect to the Company has, or within the past six years had, contributed to, been required to contribute to or incurred any "withdrawal liability" (within the meaning of Title IV of ERISA) or any other material liability with respect to, any Multiemployer Plan.

(e) No Company Benefit Plan provides medical or other welfare benefits to any Company Personnel, or any spouse or dependent of any such person, beyond their retirement or other termination of service, other than coverage mandated by applicable Law or where the expense of such benefits are fully paid by the recipient of such benefits, and no circumstances

exist that would reasonably be expected to result in the Company or any Company Subsidiary becoming obligated to provide such benefits.

(f) Except for matters that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect, (i) each Company Benefit Plan and its related trust, insurance contract or other funding vehicle has been administered in accordance with its terms and is in compliance with ERISA, the Code and all other Laws applicable to such Company Benefit Plan, (ii) the Company and all Commonly Controlled Entities with respect to the Company are in compliance with ERISA, the Code and all other Laws applicable to the Company Benefit Plans and (iii) all contributions required to be made to any Company Benefit Plan by applicable Law, regulation, any plan document or other contractual undertaking, and all premiums due or payable with respect to insurance policies funding any Company Benefit Plan, for any period through the date of this Agreement have been timely made or paid in full or, to the extent not required to be made or paid on or before the date of this Agreement, have been fully reflected on the financial statements set forth in the Filed Company SEC Documents to the extent required by GAAP.

(g) Except for matters that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect, there are no pending or, to the Knowledge of the Company, threatened claims by or on behalf of any participant in any of the Company Benefit Plans, or otherwise involving any such Company Benefit Plan or the assets of any Company Benefit Plan, other than routine claims for benefits.

(h) Except as provided by this Agreement, neither the execution and delivery of this Agreement nor the consummation of the Transactions (alone or in combination with any other event, including any termination of employment on or after the Effective Time) will (i) entitle any Company Personnel to any compensation or benefit, (ii) accelerate the time of payment or vesting, or trigger any payment or funding, of any compensation or benefits or trigger any other material obligation under any Company Benefit Plan or (iii) result in any breach or violation of, default under or limit the Company's right to amend, modify or terminate any Company Benefit Plan.

(i) No Company Personnel (i) is currently receiving any severance or separation pay from the Company or any Company Subsidiary in an amount that is material to the Company and the Company Subsidiaries, taken as a whole, (ii) has received any loan from the Company or any Company Subsidiary that has an outstanding balance that is material to the Company and the Company Subsidiaries, taken as a whole, (iii) has received or is reasonably expected to receive any payment or benefit from the Company or any Company Subsidiary pursuant to a Company Benefit Plan in effect on or before the Closing Date that would not be deductible by such entity as a result of Section 280G of the Code or (iv) is entitled to receive any gross-up, make-whole or other additional payment by reason of any Tax being imposed on such person as a result of Section 409A or 4999 of the Code.

(j) Except for matters that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect, (i) there are no labor disputes, strikes, work stoppages, slowdowns or lockouts with respect to any employees of the Company or any Company Subsidiary pending or, to the Knowledge of the Company,

threatened and, since June 12, 2015, there has not been any such action, (ii) to the Knowledge of the Company, there is no union organizing effort pending or threatened against the Company or any Company Subsidiary, (iii) as of the date of this Agreement, there is no unfair labor practice charge or complaint or other Action pending or, to the Knowledge of the Company, threatened against the Company or any Company Subsidiary before the National Labor Relations Board or any similar Governmental Entity and (iv) the Company and the Company Subsidiaries are in compliance in all material respects with all applicable Laws respecting (A) employment and employment practices, (B) terms and conditions of employment and (C) unfair labor practices (in each case, including applicable Laws regarding wage and hour requirements, correct classification of independent contractors and of employees as exempt and non-exempt, immigration status, discrimination in employment, workers' compensation, employee health and safety and collective bargaining).

SECTION 3.11. Litigation. There is no, and since January 1, 2015, there has been no, Action pending or, to the Knowledge of the Company, threatened against the Company or any Company Subsidiary, except for (i) Tobacco Litigation and (ii) Actions that individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect. There is no, and since January 1, 2015, there has been no, Judgment outstanding against or, to the Knowledge of the Company, investigation by any Governmental Entity involving, the Company or any Company Subsidiary or any of their respective properties or assets that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect, except for any Tobacco Litigation. Neither the Company nor any of the Company Subsidiaries has retained or assumed, either contractually or, to the Knowledge of the Company, by operation of Law, any liabilities or obligations that would reasonably be expected to form the basis of any Action against the Company or any of the Company Subsidiaries, except for liabilities or obligations that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

SECTION 3.12. Compliance with Applicable Laws; Regulatory Matters. The Company and the Company Subsidiaries are, and since January 1, 2015 have been, in compliance with all applicable Laws and all Permits issued thereunder, except for instances of noncompliance that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect. Neither the Company nor any Company Subsidiary has received any written communication during the period since January 1, 2015 from any person that alleges that the Company or a Company Subsidiary has any liability under, or is not in compliance with, any applicable Law or any Permit issued thereunder, except for such liabilities and instances of noncompliance that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect. This Section 3.12 does not relate to matters with respect to Taxes, which are the subject of Section 3.09, benefits and labor matters, which are the subject of Section 3.10, or Intellectual Property, which is the subject of SECTION 3.14.

SECTION 3.13. Title to Properties. (a) The Company and each of the Company Subsidiaries has good and valid title to, and with respect to real property owned by the Company or any Company Subsidiary, marketable and insurable fee simple interest in, or valid license or leasehold interests in, all of its tangible properties and assets except for defects in title, easements, restrictive covenants and similar encumbrances or impediments that, individually or

in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect. All such assets and properties, other than assets and properties in which the Company or any of the Company Subsidiaries has a license or leasehold interests, are free and clear of all conditions, encroachments, easements, rights of way, restrictions and Liens except for such conditions, encroachments, easements, rights of way, restrictions and Liens that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

(b) The Company and each of the Company Subsidiaries has complied with the terms of all leases to which it is a party, and all leases to which the Company or any Company Subsidiary is a party are in full force and effect, except for such noncompliance or failure to be in full force and effect that, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect. The Company and each Company Subsidiary is in possession of the properties or assets purported to be leased under all its leases, except for such failures to have such possession as, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

SECTION 3.14. Intellectual Property.

(a) All issued patents, pending patent applications, registered trademarks, pending applications for registration of trademarks, registered copyrights, copyright applications and domain names, in each case, owned directly by the Company or any Company Subsidiary (the foregoing being, collectively, the "Company Registered Intellectual Property") is subsisting and unexpired, and, to the Knowledge of the Company, valid and enforceable, except for, in each case, Company Registered Intellectual Property the failure of which to be subsisting, unexpired, valid or enforceable, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect. Except for matters which, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect, all Registered Company Intellectual Property is exclusively owned by the Company or a Company Subsidiary.

(b) The Company and the Company Subsidiaries own, or are validly licensed or otherwise have the right to use, in each case free and clear of any Liens other than nonexclusive licenses of Intellectual Property entered into in the ordinary course of business consistent with past practice, all Intellectual Property used in or necessary to carry on its business as now being conducted and as planned to be conducted, except for Intellectual Property the failure of which to own or have the right to use, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect. The consummation of the Transactions will not conflict with the rights of the Company or any Company Subsidiary in its Intellectual Property, except for conflicts that, individually or in the aggregate, would not reasonably be expected to have a Company Material Adverse Effect.

(c) None of the Company or any Company Subsidiary has, since January 1, 2015, infringed upon, misappropriated or otherwise come into conflict with any Intellectual Property or other proprietary information of any other person, except for any such infringement, misappropriation or other conflict that, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect. During the period since

January 1, 2015 (i) none of the Company or any Company Subsidiary has received any written or, to the Knowledge of the Company, oral charge, complaint, claim, demand or notice alleging any such infringement, misappropriation or other conflict (including any claim that the Company or any Company Subsidiary must license or refrain from using any Intellectual Property or other proprietary information of any other person), and (ii) none of the Company or any Company Subsidiary is party to or the subject of any pending or, to the Knowledge of the Company, threatened, Action before or by any Governmental Entity with respect to any such infringement, misappropriation or conflict, except for, in the case of each of subclauses (i) and (ii), such charges, complaints, claims, demands, notices and Actions that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect. To the Knowledge of the Company, no other person has, since January 1, 2015, infringed upon, misappropriated or otherwise come into conflict with any Intellectual Property owned by, licensed to or otherwise used by the Company or any Company Subsidiary, except for any such infringement, misappropriation or other conflict that, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect.

(d) (i) The Company and each Company Subsidiary has used commercially reasonable efforts intended to maintain in confidence all confidential information used or held for use by the Company in the operation of its business, and (ii) except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, to the Knowledge of the Company, none of the Company or the Company Subsidiaries has disclosed any material confidential information owned by the Company or any of the Company Subsidiaries to any other person (except in the ordinary course of business consistent with past practice and subject to obligations of confidence).

(e) Except for matters which, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect, each of the Company and the Company Subsidiaries has established privacy compliance policies and is in substantial compliance with, and since January 1, 2015 has been in substantial compliance with, its respective privacy policies and any applicable Laws relating to personally identifiable information. There are no, and since January 1, 2015 have been no, material failures of or interruptions to and, to the Knowledge of the Company there has been no unauthorized access to or use by a third party of, the information technology systems and equipment owned or leased by the Company or any of the Company Subsidiaries.

SECTION 3.15. Contracts. (a) Neither the Company nor any Company Subsidiary is a party to any Contract required to be filed by the Company as a "Material Contract" pursuant to Item 601(b)(10) of Regulation S-K under the Securities Act that has not been so filed (a "Filed Company Contract").

(b) Section 3.15(b) of the Company Disclosure Letter sets forth a list as of the date of this Agreement of each of the following types of Contracts (each such Contract and each Filed Company Contract, a "Company Material Contract") to which the Company or any Company Subsidiary is a party (other than any Contracts to which Parent or any Parent Subsidiary is a party):

(i) any material Contract granting any person other than the Company or any Company Subsidiary a right of first refusal, first offer or other right to purchase any asset of the Company or any Company Subsidiary;

(ii) any loan or credit agreement, bond, indenture, note, promissory note or other agreement pursuant to which any Indebtedness of the Company or any Company Subsidiary in excess of $200,000,000 is outstanding or may be incurred;

(iii) any Contract for the purchase or other acquisition by the Company or any Company Subsidiary of goods or services or other assets that provides for annual payments by the Company or any Company Subsidiary in excess of $200,000,000, other than in the ordinary course of business;

(iv) any Contract providing for the sale or other disposition after the date of this Agreement by the Company or any Company Subsidiary to another person of goods or services for an amount in excess of $200,000,000, other than in the ordinary course of business;

(v) any partnership, joint venture or other similar Contract or arrangement involving invested capital of over $50,000,000 or producing over $50,000,000 in annual revenue;

(vi) any Contract relating to the acquisition or disposition of any business (whether by merger, consolidation, sale or purchase of stock, sale or purchase of assets or otherwise) or the making of any capital expenditures, in each case after the date of this Agreement, in excess of $200,000,000;

(vii) any license, assignment or similar Contract pursuant to which any third party has rights under any material Intellectual Property owned by the Company or any Company Subsidiary or through which the Company or any Company Subsidiary acquires rights under any third party Intellectual Property material to its business, in each case having in excess of $50,000,000 in annual revenue, but excluding (A) Contracts for generally commercially available computer software, (B) confidentiality and non-disclosure agreements and similar Contracts, (C) Contracts with suppliers, manufacturers, distributors and other service providers entered into in the ordinary course of business, and (D) invention assignment agreements and similar Contracts entered into with officers, employees, consultants, independent contractors or service providers of the Company or any Company Subsidiary;

(viii) any Contract that would restrict the ability of the Company or the Company Subsidiaries to compete in any business or with any person in any geographic area in a manner that would reasonably be expected to be material to the Company and the Company Subsidiaries, taken as a whole; or

(ix) any Contract pursuant to which the Company or any Company Subsidiary has material continuing “earn-out” or other contingent payment obligations, in each case, with maximum aggregate payments or liabilities in excess of $50,000,000.

(c) None of the Company, any of the Company Subsidiaries or, to the Knowledge of the Company, any other party thereto is in violation of or in default under (nor does there exist any condition which upon the passage of time or the giving of notice or both would cause such a violation of or default under) any Company Material Contract (including, for purposes of this Section 3.15(c), any Contract entered into after the date of this Agreement that would have been a Company Material Contract if such Contract existed on the date of this Agreement), except for violations or defaults that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect. True and complete copies of each Company Material Contract, as amended through the date of this Agreement, including all attachments, schedules and exhibits thereto, have been made available to Parent prior to the date of this Agreement. Each Company Material Contract (including, for purposes of this Section 3.15(c), any Contract entered into after the date of this Agreement that would have been a Company Material Contract if such Contract existed on the date of this Agreement) is a valid, binding and legally enforceable obligation of the Company or the Company Subsidiary party thereto and, to the Knowledge of the Company, of the other parties thereto, except, in each case, as enforcement may be limited by bankruptcy, insolvency, reorganization or similar Laws affecting creditors' rights generally and by general principles of equity, and is in full force and effect.

SECTION 3.16. Brokers; Schedule of Fees and Expenses. No broker, investment banker, financial advisor or other similar person, other than Goldman, Sachs & Co., J.P. Morgan Securities LLC and Lazard Frères & Co. LLC, the fees and expenses of which will be paid by the Company, is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the Merger and the other Transactions based upon arrangements made by or on behalf of the Company. The Company has made available to Parent true and complete copies of all agreements between the Company (or the Transaction Committee) and Goldman, Sachs & Co., J.P. Morgan Securities LLC or Lazard Frères & Co. LLC relating to the Merger and the other Transactions.

SECTION 3.17. Opinions of Financial Advisors. The Transaction Committee has received an opinion of Goldman, Sachs & Co., and the Company Board has received separate opinions of each of Goldman, Sachs & Co., J.P. Morgan Securities LLC and Lazard Frères & Co. LLC, in each case to the effect that, as of the applicable date of each such opinion, and based upon and subject to the limitations, qualifications, assumptions and conditions set forth therein, the Merger Consideration to be paid to the holders of Company Common Stock (other than Parent or any of the Parent Subsidiaries) in the Merger or pursuant to this Agreement, as applicable, is fair, from a financial point of view, to such holders. Promptly after the execution of this Agreement, the Company will furnish to Parent, solely for informational purposes, true and complete copies of such written opinions.

SECTION 3.18. Insurance. As of the date of this Agreement, no written notice of cancelation or threat thereof in writing with respect to any insurance policy under which the Company or any Company Subsidiary is an insured has been received. Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (a) such insurance policies are, and during the periods of time such policies purported to be in effect, have been continuously, in full force and effect and (b) neither the Company nor any Company Subsidiary is in breach in any material respect or in default,

whether as to payment of premium or otherwise, under the terms of any such policy, nor, to the Knowledge of the Company, has the Company or any Company Subsidiary done or omitted to do any act or thing which could render any such insurance policy void or voidable.

ARTICLE IV

Representations and Warranties of Parent, BATUS and Sub

Parent, BATUS and Sub, jointly and severally, represent and warrant to the Company that, except (a) as set forth in the disclosure letter dated the date of this Agreement (with specific reference to the particular Section or subsection of this Agreement to which the information set forth in such disclosure letter relates; provided, however, that any information set forth in one section of such disclosure letter shall be deemed to apply to each other Section or subsection thereof or hereof to which its relevance is reasonably apparent) delivered by Parent to the Company prior to the execution of this Agreement (the "Parent Disclosure Letter") or (b) as disclosed in the Parent Public Reports made publicly available prior to the date of this Agreement (excluding any disclosures contained in any part of any Parent Public Report entitled "Risk Factors", disclosures set forth in any "Forward-Looking Statements" disclaimer or any other disclosures set forth in the Parent Public Reports to the extent they are cautionary, non-specific or predictive in nature; it being understood that any factual information contained within such headings, disclosures or statements shall not be excluded):

SECTION 4.01. Organization, Standing and Power. (a) Each of Parent, BATUS and Sub is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized (in the case of good standing, to the extent such jurisdiction recognizes such concept). Each of Parent, BATUS and Sub has all requisite corporate power and authority and has obtained all Permits necessary to enable it to own, operate, lease or otherwise hold its properties and assets and to conduct its businesses as presently conducted, other than such Permits the lack of which, individually or in the aggregate, has not had and would not reasonably be expected to have a Parent Material Adverse Effect. Parent, BATUS and Sub are duly qualified or licensed to do business in each jurisdiction where the nature of its business or the ownership or leasing of its properties makes such qualification or license necessary, other than jurisdictions in which the failure to be so qualified or licensed, individually or in the aggregate, has not had and would not reasonably be expected to have a Parent Material Adverse Effect. Parent has made available to the Company true and complete copies of the organizational documents of Parent, BATUS and Sub, in each case as amended through the date of this Agreement.

(b) Each subsidiary of Parent (each, a "Parent Subsidiary") other than BATUS and Sub (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized (in the case of good standing, to the extent such jurisdiction recognizes such concept), (ii) has all requisite corporate power and authority and has obtained all Permits necessary to enable it to own, operate, lease or otherwise hold its properties and assets and to conduct its businesses as presently conducted and (iii) is duly qualified or licensed to do business in each jurisdiction where the nature of its business or the ownership or leasing of its properties makes such qualification or license necessary, except for such variances from the

matters set forth in any of clauses (i), (ii) or (iii) as, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect.

(c) All of the issued and outstanding shares of capital stock of BATUS have been validly issued, are fully paid and nonassessable and are owned by Parent or one or more other Parent Subsidiaries.

SECTION 4.02. Sub. (a) Since the date of its incorporation, Sub has not carried on any business or conducted any operations other than the execution of this Agreement, the performance of its obligations hereunder and matters ancillary thereto.

(b) All of the issued and outstanding shares of capital stock of Sub have been validly issued, are fully paid and nonassessable and are owned by Parent or by one or more other Parent Subsidiaries, free and clear of all Liens.

SECTION 4.03. Capital Structure. (a) At the close of business on January 13, 2017, 2,027,019,539 Parent Ordinary Shares were in issue, including: 162,645,590 Parent Ordinary Shares held in treasury and 64,104,930 Parent Ordinary Shares represented by 31,993,191 Parent ADSs and, of which, 5,301,012 Parent Ordinary Shares were held in trust to satisfy Parent's share-based compensation arrangements (the "Parent Share Plans"). At the close of business on January 13, 2017, 6,252,884 Parent Share Awards over Parent Ordinary Shares were outstanding which may be satisfied by the allotment of new Parent Ordinary Shares from time to time or by a transfer of Parent Ordinary Shares held in trust. Except as set forth above, at the close of business on January 13, 2017, no Parent Ordinary Shares, or other equity, voting or ownership interests in, Parent were issued or reserved for issuance. All Parent Ordinary Shares in issue are, and all such shares that may be issued prior to the Effective Time will be when issued, duly authorized, validly issued and fully paid and not subject to or issued in violation of any purchase option, call option, right of first refusal, preemptive right, subscription right or any similar right under any provision of the UK Companies Act 2006, the articles of association of Parent (the "Parent Articles") or any Contract to which Parent is a party or otherwise bound (other than any Contracts to which the Company or any Company Subsidiary is a party or otherwise bound). The Parent ADSs to be issued as Merger Consideration will, when issued, be legally issued, entitle the holders thereof to the rights specified in the Deposit Agreement, and not be subject to or issued in violation of any purchase option, call option, right of first refusal, preemptive right, subscription right or any similar right under any provision of the UK Companies Act 2006, the Parent Articles or any Contract to which Parent is a party or otherwise bound (other than any Contracts to which the Company or any Company Subsidiary is a party or otherwise bound). There is no Indebtedness of Parent having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which holders of Parent Ordinary Shares may vote ("Parent Voting Debt"). Except for awards pursuant to the Parent Share Plans, as of the date of this Agreement there are no options, warrants, rights, convertible or exchangeable securities, other securities, "phantom" stock rights, stock appreciation rights, stock-based performance units, commitments, Contracts, arrangements or undertakings of any kind to which Parent is a party or by which it is bound (other than any Contracts, arrangements or undertakings to which the Company or any Company Subsidiary is a party or by which any of them is bound) (x) obligating Parent to issue, grant, deliver or sell, or cause to be issued, granted, delivered or sold, additional shares of, or other equity, voting or

ownership interests in, or any security convertible or exercisable for or exchangeable into any shares of or other equity, voting or ownership interest in, Parent or any Parent Voting Debt, (y) obligating Parent to issue, grant, sell, extend or enter into any such option, warrant, call, right, security, unit, commitment, Contract, arrangement or undertaking or (z) that give any person the right to receive any economic benefit or right similar to or derived from the economic benefits and rights accruing to holders of Parent Ordinary Shares. As of the date of this Agreement, there are not any outstanding contractual obligations of Parent to repurchase, redeem or otherwise acquire any shares of, or other equity, voting or ownership interests in, Parent.

(b) During the period from the close of business on January 13, 2017 to the date of this Agreement, there have been no dividends, distributions or issuances by Parent of Parent Ordinary Shares, or other equity, voting or ownership interests in, Parent other than issuances of Parent Ordinary Shares in connection with the vesting, settlement or exercise of awards, as applicable, pursuant to Parent Share Plans in accordance with their terms. To the Knowledge of Parent, there are no irrevocable proxies and no voting agreements with respect to any shares of the capital stock or other voting securities of Parent.

SECTION 4.04. Authority; Execution and Delivery; Enforceability. (a) Each of Parent, BATUS and Sub has all requisite corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the Transactions, subject to receipt of the Parent Shareholder Approval and the Sub Shareholder Approval (which Sub Shareholder Approval shall be obtained promptly after the execution of this Agreement). The execution and delivery by each of Parent, BATUS and Sub of this Agreement, the performance by it of its obligations hereunder and the consummation by them of the Transactions have been or will be duly authorized by all necessary corporate action on the part of Parent, BATUS or Sub, subject to receipt of the Parent Shareholder Approval and the Sub Shareholder Approval. Each of Parent, BATUS and Sub has duly executed and delivered this Agreement, and, assuming this Agreement constitutes a valid and binding obligation of the Company, this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except, in each case, as enforcement may be limited by bankruptcy, insolvency, reorganization or similar Laws affecting creditors' rights generally and by general principles of equity.

(b) The Parent Board, at a meeting duly called and held, duly and unanimously adopted resolutions (i) resolving that this Agreement, including the Plan of Merger, and the other applicable Transactions are advisable and will promote the success of Parent for the benefit of the holders of Parent Ordinary Shares as a whole, (ii) approving and adopting this Agreement, including the Plan of Merger and the other applicable Transactions, and (iii) resolving to recommend without qualification that Parent's shareholders approve this Agreement and the applicable Transactions as a Class 1 transaction in accordance with the Listing Rules, the Prospectus Rules, the Disclosure Guidance and Transparency Rules and the authorization for the directors to allot and issue Parent Ordinary Shares underlying the Parent ADSs constituting the Merger Consideration (the "Parent Recommendation") which resolutions have not been subsequently rescinded, modified or withdrawn in any way except as permitted by Section 5.03.

(c) The Sub Board, acting by unanimous written consent in lieu of a meeting, duly and unanimously adopted resolutions (i) adopting this Agreement, the Plan of Merger and the other applicable Transactions, (ii) determining that the terms of the Merger and the other applicable Transactions are fair to and in the best interests of Sub and its sole shareholder, (iii) recommending that Sub's sole shareholder approve and adopt the Plan of Merger and (iv) declaring that this Agreement and the Plan of Merger are advisable, which resolutions have not been subsequently rescinded, modified or withdrawn in any way as of the date of this Agreement. BATUS, as the holder of all of the issued and outstanding shares of capital stock of Sub as of the date of this Agreement, will, immediately following the execution and delivery of this Agreement by each of the parties hereto, approve the Plan of Merger (the "Sub Shareholder Approval").

(d) The only vote of holders of Parent Ordinary Shares necessary to approve this Agreement and the Plan of Merger, the issuance of the Parent Ordinary Shares underlying the Parent ADSs constituting Merger Consideration and the Financing is (i) approval of this Agreement and the applicable Transactions as a Class 1 transaction by the holders of Parent Ordinary Shares and (ii) authorization for directors of Parent to allot and issue the Parent Ordinary Shares underlying the Parent ADSs constituting the Merger Consideration, in each case on a poll by the holders of not less than a majority of Parent Ordinary Shares, present in person or by proxy who are entitled to vote at the Parent Shareholders Meeting (the "Parent Shareholder Approval").

SECTION 4.05. No Conflicts; Consents. (a) The execution and delivery by each of Parent, BATUS and Sub of this Agreement and the performance by them of their obligations hereunder do not, and the consummation of the Merger and the other Transactions and compliance with the terms hereof and thereof will not (i) conflict with, or result in any violation of any provision of, the organizational documents of Parent, BATUS or Sub (assuming the Parent Shareholder Approval is obtained), (ii) conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancelation or acceleration of any obligation under, or loss of a material benefit under, or to increased, additional, accelerated or guaranteed rights or entitlements of any person under, or result in the creation of any Lien upon any of the properties or assets of Parent, BATUS or Sub under, any provision of any material Contract to which Parent, BATUS or Sub is a party or by which any of their respective properties or assets is bound (other than any material Contracts to which the Company or any Company Subsidiary is a party or by which any of their respective properties or assets is bound) or (iii) conflict with, or result in any violation of any provision of, subject to the filings and other matters referred to in Section 4.05(b), any Judgment or Law applicable to Parent, BATUS or Sub or their respective properties or assets (assuming that the Parent Shareholder Approval is obtained), other than, in the case of clauses (ii) and (iii) above, any such items that, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect (it being agreed that for purposes of this Section 4.05(a), effects resulting from or arising in connection with the execution, delivery or performance of this Agreement, as set forth in clause (d) of the definition of the term "Material Adverse Effect", will not be excluded in determining whether a Parent Material Adverse Effect has occurred or would reasonably be expected to occur) and would not prevent or materially impair the ability of the Parent Entities and Sub to perform their respective obligations hereunder or consummate the Merger.

(b) No Consent of or from, or registration, declaration, notice or filing with or made to any Governmental Entity or the expiry of any related waiting period is required to be obtained or made by or with respect to Parent, BATUS or Sub in connection with the execution, delivery and performance by Parent and Sub of this Agreement or the consummation of the Transactions, other than (i) compliance with and filings under the HSR Act and any other mandatory or appropriate merger control filings and notifications in respect of the Transactions, (ii) the filing with the SEC of (A) a registration statement on Form F-4, relating to the registration under the Securities Act of the Parent Ordinary Shares to be issued as consideration in the Merger (the "Form F-4") and declaration of effectiveness of the Form F-4, (B) a registration statement on Form 8-A relating to the registration under the Exchange Act of Parent ADSs to be issued as Per Share Stock Consideration (the "Form 8-A"), (C) a registration statement on Form F-6, to be filed by Parent and the depositary of the Parent ADSs relating to the registration under the Securities Act of the Parent ADSs to be issued as Merger Consideration and the change in Parent's SEC reporting status (the "Form F-6"), (D) the Schedule 13E-3 and (E) the filing with the SEC of such other reports required in connection with the Merger under, and such other compliance with, the Exchange Act and the Securities Act and the rules and regulations thereunder, (iii) the filing with, and the approval by, the United Kingdom Listing Authority (the "UKLA") of a prospectus (the "Parent Prospectus") and a shareholder circular (the "Parent Circular") relating to the general meeting of Parent's shareholders to be held for the purpose of obtaining the Parent Shareholder Approval (the "Parent Shareholders Meeting"), (iv) compliance with the Listing Rules, the Prospectus Rules, the Disclosure Guidance and Transparency Rules and the Market Abuse Regulation, (v) the application to the UK Financial Conduct Authority (the "FCA") and the LSE for the Parent Ordinary Shares constituting the Merger Consideration to be admitted to the premium listing segment of the Official List of the FCA and to trading on LSE's main market for listed securities, respectively, (vi) the application to, and the approval by, JSE Limited for the Parent Ordinary Shares constituting the Merger Consideration to be admitted to listing and trading on the Main Board of JSE Limited, (vii) such filings with and approvals of the NYSE as are required to permit the listing of the Parent ADSs on the NYSE, (viii) the filing of the Articles of Merger with the Secretary of State of the State of North Carolina and appropriate documents with the relevant authorities of the other jurisdictions in which Parent and Sub are qualified to do business, (ix) such filings with and approvals of the Bureau of Alcohol, Tobacco, Firearms and Explosives, state licensing authorities and state taxing authorities as are required to consummate the Transactions, (x) compliance with and such filings as may be required under applicable Environmental Laws, (xi) such filings as may be required to be filed with the Registrar of Companies in England & Wales and (xii) such other items that the failure of which to obtain or make, individually or in the aggregate, would not reasonably be expected to have a Parent Material Adverse Effect (it being agreed that for purposes of this Section 4.05(b), effects resulting from or arising in connection with the execution and delivery of this Agreement, as set forth in clause (d) of the definition of the term "Material Adverse Effect", will not be excluded in determining whether a Parent Material Adverse Effect has occurred or would reasonably be expected to occur) and would not prevent or materially impair the ability of the Parent Entities and Sub to perform their respective obligations hereunder or consummate the Merger.

SECTION 4.06. Public Reports; Undisclosed Liabilities. (a) All circulars, notices, prospectuses, resolutions, reports (including annual financial reports, half yearly financial reports and interim management statements) and other documents prepared by Parent

since January 1, 2015, to which the Listing Rules and the rules and regulations promulgated by the UKLA apply (collectively, the "Parent Public Reports") (i) were prepared in accordance with the requirements of the UKLA and other applicable Laws, (ii) timely filed with the UKLA and, if applicable, the Registrar of Companies (where the Parent Public Reports were required by applicable Law or by the UKLA to be so filed), (iii) comprise the only circulars, notices, prospectuses, resolutions, reports and other documents required by the UKLA to be filed or published by Parent since January 1, 2015 and (iv) in the case of Parent Public Reports which were required by applicable Law or by the UKLA to so be filed, did not, at the time they were filed, contain any information which was not in accordance with the facts or which omitted anything likely to affect the import of such information. For purposes of this Section 4.06(a) and this Agreement where appropriate, "file" and "filing" include, in the case of Parent, any announcement made or required to be made to a regulatory information service. The consolidated financial statements of Parent included in the Parent Public Reports comply as to form in all material respects with applicable accounting requirements and applicable Laws with respect thereto, have been prepared in accordance with International Financial Reporting Standards as adopted by the European Union ("IFRS") (except, in the case of unaudited interim financial statements, as permitted by applicable Laws) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto), and give a true and fair view, in all material respects, in accordance with IFRS, of the state of the affairs of Parent and its consolidated subsidiaries as of the dates thereof and the profit and cash flows of Parent and its consolidated subsidiaries for the periods then ended (subject, in the case of any unaudited interim financial statements, to normal year-end adjustments).

(b) Except as set forth in Parent Public Reports publicly available prior to the date of this Agreement or as incurred in the ordinary course of business since the date of the last balance sheet included in such Parent Public Reports, neither Parent nor any Parent Subsidiary has any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) that are required by IFRS to be set forth on a consolidated balance sheet of Parent and its consolidated subsidiaries or in the notes thereto and that, individually or in the aggregate, have had or would reasonably be expected to have a Parent Material Adverse Effect.

(c) Parent keeps adequate accounting records which disclose with reasonable accuracy at any time its financial position as required by applicable Law, including the UK Companies Act 2006. Parent has taken reasonable steps (i) to establish procedures which provide a reasonable basis for Parent to make proper judgments on an ongoing basis as to the financial position and prospects of Parent and its consolidated subsidiaries and (ii) to maintain a sound system of internal control including financial, operational and compliance controls and risk management systems, as required by the Listing Rules and the UK Corporate Governance Code dated September 2014.

(d) Parent is, and since January 1, 2015 has been, in compliance in all material respects with all applicable listing and corporate governance rules and requirements of the London Stock Exchange plc (the "LSE") and JSE Limited, with respect to the Parent Ordinary Shares, and the NYSE, with respect to the Parent ADSs.

SECTION 4.07. Disclosure Documents. (a) Each document required to be filed by Parent with the SEC or the UKLA or required to be distributed or otherwise disseminated to

Parent's shareholders in connection with the Merger and the other Transactions, including the Form F-4, the Form 8-A, the Parent Circular, the Parent Prospectus, the Schedule 13E-3, and any amendments or supplements thereto, when filed, distributed or disseminated, as applicable, will comply as to form in all material respects with the applicable requirements of the Securities Act and the Exchange Act and the rules and regulations of the SEC thereunder (in the case of the Form F-4, the Form 8-A and the Schedule 13E-3) and the applicable requirements of the Listing Rules and the Prospectus Rules (in the case of the Parent Circular and the Parent Prospectus, respectively).

(b) (i) At the time the Schedule 13E-3 or any amendment or supplement thereto becomes effective, the Schedule 13E-3, as amended or supplemented, will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, (ii) at the time the Parent Circular or any amendment or supplement thereto is first mailed to the holders of Parent Ordinary Shares, and at the time of the Parent Shareholders Meeting, the Parent Circular, as amended or supplemented, if applicable, will not contain any information which is not in accordance with the facts or which omits anything likely to affect the import of such information and will contain all particulars and information required by the Listing Rules, (iii) at the time the Parent Prospectus or any amendment or supplement thereto is first published, the Parent Prospectus, as amended or supplemented, if applicable, will not contain any information which is not in accordance with the facts or which omits anything likely to affect the import of such information and will contain all such information as is necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of Parent and its consolidated subsidiaries and the rights attaching to Parent Ordinary Shares, in a form which is comprehensible and easy to analyze and includes a summary that conveys, concisely, in non-technical language and in an appropriate structure, the key information relevant to the Parent Ordinary Shares and (iv) at the time the Form F-4 or any amendment or supplement thereto is filed with the SEC, and at the time the Form F-4, as amended or supplemented, is declared effective under the Securities Act, the Form F-4, as amended or supplemented, will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except that no representation or warranty is made by Parent in this Section 4.07 with respect to statements made or incorporated by reference therein based on information supplied by the Company specifically for inclusion or incorporation by reference in such documents.

(c) None of the information supplied or to be supplied by Parent, the Parent Subsidiaries or Parent's Representatives for inclusion or incorporation by reference in the Proxy Statement will, at the date it is first mailed to holders of Company Capital Stock or at the time of the Company Shareholders Meeting or at the time of any amendment or supplement thereof, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances in which they were made, not misleading.

SECTION 4.08. Absence of Certain Changes or Events. During the period since January 1, 2016, (a) other than in connection with the Transactions, Parent has conducted its business in the ordinary course consistent with past practice in all material respects and (b) there

has not been any change, effect, event, circumstance, development or occurrence that, individually or in the aggregate, has had or would reasonably be expected to have a Parent Material Adverse Effect.

SECTION 4.09. Taxes.

(a) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, each of Parent and the Parent Subsidiaries has duly filed all United Kingdom, U.S. Federal, state, local and foreign Tax Returns required to be filed by any of them, taking into account any extensions of time within which to file (all such Tax Returns being accurate and complete) and has duly paid or made provisions for the payment of all Taxes that have been incurred or are due or claimed to be due from them by Federal, state, foreign or local taxing authorities (other than Taxes that are not yet delinquent or that are being contested in good faith, have not been finally determined and are covered by adequate reserves in accordance with IFRS in the Parent Public Reports).

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, neither Parent nor any of the Parent Subsidiaries has agreed to or granted any extension or waiver of the limitation period applicable to any Taxes or Tax Returns, which extension or waiver is currently in effect (other than pursuant to extensions of time to file Tax Returns obtained in the ordinary course of business).

(c) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, each of Parent and the Parent Subsidiaries has properly and timely withheld or collected and timely paid over to the appropriate taxing authority (or each is properly holding for such timely payment) all amounts of Taxes required to be withheld, collected and paid over by applicable Law.

(d) Except as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, no written claim has been made in the past three years by a taxing authority in a jurisdiction where Parent or any Parent Subsidiary does not file Tax Returns that any of them is or may be subject to Tax by such jurisdiction.

SECTION 4.10. Litigation. There is no, and since January 1, 2015, there has been no, Action pending or, to the Knowledge of Parent, threatened against Parent or any Parent Subsidiary, except for (i) Tobacco Litigation and (ii) Actions that individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect. There is no, and since January 1, 2015, there has been no, Judgment outstanding against or, to the Knowledge of Parent, investigation by any Governmental Entity involving, Parent or any Parent Subsidiary or any of their respective properties or assets that, individually or in the aggregate, has had or would reasonably be expected to have a Parent Material Adverse Effect, except for any Tobacco Litigation. Neither Parent nor any of the Parent Subsidiaries has retained or assumed, either contractually or, to the Knowledge of Parent, by operation of Law, any liabilities or obligations that would reasonably be expected to form the basis of any Action against Parent or any of the Parent Subsidiaries, except for liabilities or obligations that, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect.

SECTION 4.11. Compliance with Applicable Laws; Regulatory Matters. Parent and the Parent Subsidiaries are, and since January 1, 2015 have been, in compliance with all applicable Laws and all Permits issued thereunder, except for instances of noncompliance that, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect. Neither Parent nor any Parent Subsidiary has received any written communication during the period since January 1, 2015 from any person that alleges that Parent or a Parent Subsidiary has any liability under, or is not in compliance with, any applicable Law or any Permit issued thereunder, except for such liabilities and instances of noncompliance that, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect. Parent has established practices and procedures regarding recusal by members of the Parent Board from all discussions or business decisions which would cause them to violate applicable U.S. sanctions Laws by virtue of their nationality. This Section 4.11 does not relate to matters with respect to Taxes, which are the subject of Section 4.09, or Intellectual Property, which is the subject of Section 4.12.

SECTION 4.12. Intellectual Property. (a) All issued patents, pending patent applications, registered trademarks, pending applications for registration of trademarks, registered copyrights, copyright applications and domain names, in each case, owned directly by Parent or any Parent Subsidiary (the foregoing being, collectively, the "Parent Registered Intellectual Property") is subsisting and unexpired and, to the Knowledge of Parent, valid and enforceable, except for, in each case, Parent Registered Intellectual Property the failure of which to be subsisting, unexpired, valid or enforceable, individually or in the aggregate, has not had and would not reasonably be expected to have a Parent Material Adverse Effect. Except for matters which, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect, all Parent Registered Intellectual Property is exclusively owned by Parent or a Parent Subsidiary.

(b) Parent and the Parent Subsidiaries own, or are validly licensed or otherwise have the right to use, in each case free and clear of any Liens other than nonexclusive licenses of Intellectual Property entered into in the ordinary course of business consistent with past practice, all Intellectual Property used in or necessary to carry on its business as now being conducted and as planned to be conducted, except for Intellectual Property the failure of which to own or have the right to use, individually or in the aggregate, has not had and would not reasonably be expected to have a Parent Material Adverse Effect. The consummation of the Transactions will not conflict with the rights of Parent or any Parent Subsidiary in its Intellectual Property, except for conflicts that, individually or in the aggregate, would not reasonably be expected to have a Parent Material Adverse Effect.

(c) None of Parent or any Parent Subsidiary has, since January 1, 2015, infringed upon, misappropriated or otherwise come into conflict with any Intellectual Property or other proprietary information of any other person, except for any such infringement, misappropriation or other conflict that, individually or in the aggregate, has not had and would not reasonably be expected to have a Parent Material Adverse Effect. During the period since January 1, 2015 (i) none of Parent or any Parent Subsidiary has received any written or, to the Knowledge of Parent, oral charge, complaint, claim, demand or notice alleging any such infringement, misappropriation or other conflict (including any claim that Parent or any Parent Subsidiary must license or refrain from using any Intellectual Property or other proprietary information of any

other person) and (ii) none of Parent or any Parent Subsidiary is party to or the subject of any pending or, to the Knowledge of Parent, threatened, Action before or by any Governmental Entity with respect to any such infringement, misappropriation or conflict, except for, in the case of each of subclauses (i) and (ii), such charges, complaints, claims, demands, notices and Actions that, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect. To the Knowledge of Parent, no other person has, since January 1, 2015, infringed upon, misappropriated or otherwise come into conflict with any Intellectual Property owned by, licensed to or otherwise used by Parent or any Parent Subsidiary, except for any such infringement, misappropriation or other conflict that, individually or in the aggregate, has not had and would not reasonably be expected to have a Parent Material Adverse Effect.

(d) (i) Parent and each Parent Subsidiary has used commercially reasonable efforts intended to maintain in confidence all confidential information used or held for use by Parent in the operation of its business and (ii) except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, to the Knowledge of Parent, none of Parent or any of the Parent Subsidiaries has disclosed any material confidential information owned by Parent or any of the Parent Subsidiaries to any other person (except in the ordinary course of business consistent with past practice and subject to obligations of confidence).

(e) Except for matters which, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect, each of Parent and the Parent Subsidiaries has established privacy compliance policies and is in substantial compliance with, and since January 1, 2015 has been in substantial compliance with, its respective privacy policies and any applicable Laws relating to personally identifiable information. There are no, and since January 1, 2015 have been no, material failures of or interruptions to and, to the Knowledge of Parent there has been no unauthorized access to or use by a third party of, the information technology systems and equipment owned or leased by Parent or any of the Parent Subsidiaries.

SECTION 4.13. Brokers; Schedule of Fees and Expenses. No broker, investment banker, financial advisor or other similar person, other than Centerview Partners UK LLP, Deutsche Bank AG and UBS Limited, the fees and expenses of which will be paid by Parent, is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the Merger and the other Transactions based upon arrangements made by or on behalf of Parent.

SECTION 4.14. Sufficient Funds; Financing.

(a) At the Closing, Parent, together with the Parent Subsidiaries, will have, or will have available to them, the funds necessary to pay (i) the aggregate Per Share Cash Consideration in full in accordance with the terms of this Agreement, (ii) any other amounts required to be paid in connection with the consummation of the Merger, (iii) assuming compliance by the Company with Section 5.01(a)(viii), all obligations pursuant to the Company's Credit Agreement, dated as of December 18, 2014, by and among the Company, as borrower, the lenders party thereto from time to time and JPMorgan Chase Bank, N.A., as

administrative agent thereunder, as amended and (iv) any fees and expenses associated with the foregoing (the "Required Payments"). Parent has delivered to the Company fully executed, true and complete copies of (x) the New Term Loan Facility dated on or about the date of this Agreement together with any exhibits, annexes, schedules or other attachments thereto, with the financing sources specified therein and (y) any fee, syndication, "flex" or similar letters relating to the New Term Loan Facility together with any exhibits, annexes, schedules or other attachments thereto (with only the fee amounts and certain other provisions redacted, which redacted provisions shall not affect the principal amount or availability of the Financing). The proceeds of the New Term Loan Facility shall be available to finance the Required Payments. As of the date hereof, there are no amendment, modifications or waivers with respect to the New Term Loan Facility. The New Term Loan Facility is the legal, valid and binding obligation of, and enforceable against, Parent, and, to the Knowledge of Parent, each of the other parties thereto except, in each case, as enforcement may be limited by bankruptcy, insolvency, reorganization or similar Laws affecting creditors' rights generally and by general principles of equity.

(b) Notwithstanding anything in this Agreement to the contrary, the Parent Entities and Sub acknowledge and agree that it is not a condition to Closing under this Agreement for any Parent Entity to obtain all or any portion of the Financing.

ARTICLE V

Covenants Relating to Conduct of Business

SECTION 5.01. Conduct of Business. (a) Conduct of Business by the Company. Except as set forth in Section 5.01(a) of the Company Disclosure Letter or otherwise expressly permitted or expressly contemplated by this Agreement or required by applicable Law or with the prior written consent of Parent (such consent not to be unreasonably withheld, conditioned or delayed), from the date of this Agreement to the Effective Time, or, if earlier, the termination of this Agreement in accordance with its terms, the Company shall, and shall cause each Company Subsidiary to, (i) conduct its business in the ordinary course in all material respects consistent with past practice and (ii) use commercially reasonable efforts to preserve intact its business organization and advantageous business relationships, including by maintaining its relations and goodwill with all material suppliers, material customers, material licensors, material licensees, material distributors and Governmental Entities and keeping available the services of its current officers and employees. In addition, and without limiting the generality of the foregoing, except as forth in Section 5.01(a) of the Company Disclosure Letter or otherwise expressly permitted or expressly contemplated by this Agreement or required by applicable Law or with the prior written consent of Parent (such consent not to be unreasonably withheld, conditioned or delayed), from the date of this Agreement to the Effective Time, or, if earlier, the termination of this Agreement in accordance with its terms, the Company shall not, and shall not permit any Company Subsidiary to, do any of the following:

(i) (A) declare, set aside or pay any dividends on, or make any other distributions (whether in cash, stock or property or any combination thereof) in respect of, any of its capital stock, other equity interests or voting securities, other than (1) regular quarterly cash dividends payable by the Company in respect of shares of Company Common Stock

with declaration, record and payment dates consistent with past practice and in accordance with the Company's current dividend policy and in accordance with Section 5.01(a)(i)(A) of the Company Disclosure Letter and (2) dividends and distributions by any Company Subsidiary to its applicable parent, (B) split, combine, subdivide or reclassify any of its capital stock, other equity interests or voting securities, or securities convertible into or exchangeable or exercisable for capital stock or other equity interests or voting securities or issue, propose or authorize the issuance of any other securities in respect of, in lieu of or in substitution for its capital stock, other equity interests or voting securities or (C) repurchase, redeem or otherwise acquire, or offer to repurchase, redeem or otherwise acquire, from any third party, any capital stock or voting securities of, or equity interests in, the Company or any Company Subsidiary or any securities thereof convertible into or exchangeable or exercisable for capital stock or voting securities of, or equity interests in, the Company or any Company Subsidiary, or any warrants, calls, options or other rights to acquire any such capital stock, securities or interests, other than (x) the withholding of shares of Company Common Stock to satisfy Tax obligations with respect to Company Stock Awards granted pursuant to the Company Stock Plans and (y) the acquisition by the Company of Company Stock Awards granted pursuant to the Company Stock Plans in connection with the forfeiture of such Company Stock Awards;

(ii) issue, deliver, sell, grant, pledge or otherwise encumber or subject to any Lien (except for any transaction solely between the Company and a wholly owned Company Subsidiary or between wholly owned Company Subsidiaries) (A) any shares of Company Capital Stock or any other capital stock of the Company or any Company Subsidiary, (B) any other equity interests or voting securities of the Company or any Company Subsidiary, (C) any securities convertible into or exchangeable or exercisable for capital stock or voting securities of, or other equity interests in, the Company or any Company Subsidiary, (D) any warrants, calls, options or other rights to acquire any capital stock or voting securities of, or other equity interests in, the Company or any Company Subsidiary, (E) any rights issued by the Company or any Company Subsidiary that are linked in any way to the price of any class of Company Capital Stock or any shares of capital stock of any Company Subsidiary, the value of the Company, any Company Subsidiary or any part of the Company or any Company Subsidiary or any dividends or other distributions declared or paid on any shares of Company Capital Stock or any other capital stock of the Company or any Company Subsidiary or (F) any Company Voting Debt, in each case other than the issuance of shares of Company Common Stock upon the vesting or settlement of Company Stock Awards (x) outstanding on the date of this Agreement and in accordance with the terms of the applicable award in effect on the date of this Agreement or (y) granted after the date of this Agreement in accordance with this Agreement;

(iii) (A) amend the Company Charter or the Company Bylaws or (B) amend in any material respect the charter or organizational documents of any Company Subsidiary;

(iv) except as required to comply with any Contract or Company Benefit Plan in effect on the date of this Agreement, as contemplated by the terms of this Agreement or, solely in respect of subclauses (A), (B), (C) and (E), in the ordinary course of business consistent with past practice, (A) increase the compensation or other benefits payable or

provided to any Company Personnel, (B) establish, adopt, enter into, amend (including acceleration of vesting or payment), modify or terminate any Company Benefit Plan or plan, program, policy, agreement or other arrangement that would have been a Company Benefit Plan had it been in effect on the date of this Agreement, other than amendments, renewals and other changes, or the adoption of new Company Benefit Plans, that, in any such case, do not result in a material increase in benefits-related costs, (C) grant, grant any right to receive, or pay to any Company Personnel any severance, termination, change in control, retention or similar compensation or benefits or increase in any manner such compensation or benefits, (D) except to the extent expressly permitted under Section 5.01(a)(ii) of the Company Disclosure Letter, grant any awards under any Company Benefit Plan (including the grant of stock options, stock appreciation rights, performance units, restricted stock, stock repurchase rights or other stock-based or stock-related awards or the removal or modification of existing restrictions in any Contract, Company Benefit Plan or awards made thereunder), other than any awards provided in the ordinary course of business consistent with past practice in connection with the hire or promotion of any Company Personnel or (E) take any action to fund or in any other way secure the payment of compensation or benefits under any Contract or Company Benefit Plan;

(v) make any material change in financial accounting methods, principles or practices, except insofar as may have been required by a change in GAAP (after the date of this Agreement);

(vi) other than pursuant to cash management or investment portfolio activities performed in the ordinary course of business consistent with past practice, directly or indirectly acquire in any transaction any equity interest in or business of any person or other entity or division thereof or any properties or assets for consideration valued in excess of $50,000,000 in the aggregate (other than purchases of supplies and inventory in the ordinary course of business consistent with past practice or any transaction solely between the Company and a wholly owned Company Subsidiary or between wholly owned Company Subsidiaries, in each case, in the ordinary course of business consistent with past practice);

(vii) sell, lease (as lessor), license, mortgage, sell and leaseback or otherwise encumber or subject to any Lien, or otherwise dispose of any material properties, rights or assets of the Company or any of the Company Subsidiaries (other than Intellectual Property, which is the subject of Section 5.01(a)(xiv)), except (A) pursuant to Contracts or commitments in effect on the date of this Agreement (or entered into after the date of this Agreement without violating the terms of this Agreement), (B) for the sale, lease or license of products and services with a fair market value not in excess of $25,000,000 and made in the ordinary course of business consistent with past practice, (C) in connection with any waiver, release, assignment, settlement, compromise or Action otherwise permitted under this Section 5.01(a) or (D) in connection with cash management or investment portfolio activities performed in the ordinary course of business consistent with past practice;

(viii) incur any Indebtedness, except for (A) borrowings under any of the Company's existing credit facilities that are made in the ordinary course of business consistent with past practice and, in any case, not in excess of $1,000,000,000, in the aggregate, (B) other borrowings not in excess of $25,000,000, in the aggregate or (C) intercompany Indebtedness among the Company and any wholly owned Company Subsidiaries in the ordinary course of business consistent with past practice;

(ix) make any capital expenditure in excess of $10,000,000 individually and $30,000,000 in the aggregate for all such capital expenditures that are not contemplated by the capital plans set forth in Section 5.01(a)(ix) of the Company Disclosure Letter;

(x) make any loans, advances or capital contributions to, or investments in, any person in excess of $5,000,000 individually and $25,000,000 in the aggregate, other than (A) cash management or investment portfolio activities performed in the ordinary course of business consistent with past practice, (B) in connection with a transaction permitted under Section 5.01(a)(vi) or (C) solely between the Company and a wholly owned Company Subsidiary or between wholly owned Company Subsidiaries;

(xi) (A) extend, renew, terminate or materially amend or modify any Company Material Contract or enter into, extend, renew or materially amend or modify any Contract that would have been a Company Material Contract if such Contract had been entered into prior to the date of this Agreement or (B) waive, release or assign any material rights, claims or benefits under any such Contract (solely for purposes of this Section 5.01(a)(xi), the term "Company Material Contract" shall have the meaning set forth in the definition of Company Material Contract contained in Section 3.15(b), except that (x) all references in such definition to "$200,000,000" shall be deemed to be references to "$100,000,000" and (y) such definition shall not be deemed to include any Company Material Contract that is a Company Material Contract solely because it is a Filed Company Contract);

(xii) enter into, extend, renew or materially amend or modify any Contract for goods and services (A) providing for aggregate annual payments by the Company or any Company Subsidiaries in excess of $40,000,000 and (B) with durations of greater than one year from the date of such entry, extension, renewal, amendment or modification;

(xiii) waive, release, assign, settle or compromise (A) any Action, other than waivers, releases, assignments, settlements or compromises that do not create obligations of the Company or any of the Company Subsidiaries other than the payment of monetary damages (x) equal to or less than the amounts reserved with respect thereto on the Company SEC Documents filed prior to the date of this Agreement or (y) not in excess of $25,000,000 for any individual Action and $100,000,000 in the aggregate or (B) any Action relating to the Transactions other than in accordance with Section 6.12;

(xiv) abandon, encumber, convey title (in whole or in part), exclusively license or grant any right or other licenses to any material Intellectual Property owned by the Company or any Company Subsidiary, or enter into Contracts that impose material restrictions upon the Company or any Company Subsidiaries with respect to material

Intellectual Property rights owned by any third party, in each case other than in the ordinary course of business consistent with past practice;

(xv) except in the ordinary course of business consistent with past practice, make or change any material Tax election, change any annual Tax accounting period, change or consent to any material change in any Tax accounting method, file any amended material Tax Return, enter into any closing agreement related to a material Tax, surrender any right to claim a material Tax refund, settle any material Tax liability, request any material Tax ruling or waive, extend or consent to any extension or waiver of the statute of limitations period applicable to any material Taxes, Tax claim or assessment;

(xvi) enter into any new line of business outside of the existing businesses of the Company and the Company Subsidiaries;

(xvii) adopt a plan of complete or partial liquidation or resolutions providing for the dissolution, restructuring, recapitalization or other similar reorganization of the Company or dissolve or liquidate any material Company Subsidiary;

(xviii) file, issue, release or otherwise publish any projections, forecasts, estimates, guidance or predictions in respect of revenues, earnings, profits or other financial or operating metrics, other than any such projections, forecasts, estimates, guidance or predictions that the Company determines in good faith (after consultation with its outside legal counsel) is required by applicable Law to be included in the Proxy Statement;

(xix) enter into any material joint venture, partnership or other similar arrangement; or

(xx) authorize any of, or commit, resolve or agree to take any of, the foregoing actions.

(b) Conduct of Business by Parent. Except as set forth in Section 5.01(b) of the Parent Disclosure Letter or otherwise expressly permitted or expressly contemplated by this Agreement or required by applicable Law or with the prior written consent of the Company (such consent not to be unreasonably withheld, conditioned or delayed), from the date of this Agreement to the Effective Time, or, if earlier, the termination of this Agreement in accordance with its terms, Parent shall, and shall cause each Parent Subsidiary to, (i) conduct its business in the ordinary course in all material respects consistent with past practice and (ii) use commercially reasonable efforts to preserve intact its business organization and advantageous business relationships, including by maintaining its relations and goodwill with all material suppliers, material customers, material licensors, material licensees, material distributors and Governmental Entities and keeping available the services of its current officers and employees. In addition, and without limiting the generality of the foregoing, except as forth in Section 5.01(b) of the Parent Disclosure Letter or otherwise expressly permitted or expressly contemplated by this Agreement or required by applicable Law or with the prior written consent of the Company (such consent not to be unreasonably withheld, conditioned or delayed), from

the date of this Agreement to the Effective Time, or, if earlier, the termination of this Agreement in accordance with its terms, Parent shall not do any of the following:

(i) (A) declare, set aside or pay any dividends on, or make any other distributions (whether in cash, shares or property or any combination thereof) in respect of, any of its shares, other equity interests or voting securities, other than (1) regular half year and annual cash dividends with respect to the Parent Ordinary Shares and Parent ADSs, with amounts and declaration, record and payment dates consistent with past practice and in accordance with Parent's current publicly announced dividend policy, subject to periodic increases and modifications as determined by the Parent Board in the ordinary course of business consistent with past practice and Parent's publicly announced dividend policy and (2) dividends and distributions with record dates after the Effective Time, (B) split, combine, subdivide or reclassify any of its shares, other equity interests or voting securities, or securities convertible into or exchangeable or exercisable for shares or other equity interests or voting securities or issue, propose or authorize the issuance of any other securities in respect of, in lieu of or in substitution for shares, other equity interests or voting securities or (C) repurchase, redeem or otherwise acquire, or offer to repurchase, redeem or otherwise acquire, from any third party, any shares or voting securities of, or equity interests in, Parent or any securities thereof convertible into or exchangeable or exercisable for shares or voting securities of, or equity interests in, Parent or any warrants, calls, options or other rights to acquire any such shares, securities or interests, other than the acquisition by Parent of Parent Share Awards granted pursuant to the Parent Share Plans in connection with the forfeiture of such Parent Share Awards;

(ii) issue, deliver, sell or grant (except for any transaction solely between Parent and a wholly owned Parent Subsidiary or between wholly owned Parent Subsidiaries) (A) any shares of capital stock of Parent, (B) any other equity interests or voting securities of Parent, (C) any securities convertible into or exchangeable or exercisable for capital stock or voting securities of, or other equity interests in, Parent, (D) any warrants, calls, options or other rights to acquire any capital stock or voting securities of, or other equity interests in, Parent, (E) any rights issued by Parent that are linked in any way to the price of any class, or any shares, of capital stock of Parent, the value of Parent or any part of Parent or any dividends or other distributions declared or paid on any shares of capital stock of Parent, or (F) any Parent Voting Debt, in each case other than the grant of any Parent Share Award pursuant to the Parent Share Plans and the issuance of any Parent Ordinary Shares or Parent ADSs in connection with any Parent Share Awards;

(iii) amend the Parent Articles, except for such changes as would not reasonably be expected to prevent, delay or impede the Closing or would require approval from the holders of Parent Ordinary Shares;

(iv) make any material change in financial accounting methods, principles or practices, except insofar as may have been required by a change in IFRS (after the date of this Agreement) or as required in connection with the registration under the Securities Act of the Parent Ordinary Shares contemplated by this Agreement;

(v) adopt a plan of complete or partial liquidation or resolutions providing for the dissolution, restructuring, recapitalization or other similar reorganization of Parent; or

(vi) authorize any of, or commit, resolve or agree to take any of, the foregoing actions.

(c) Other Actions. Each of the Company and Parent shall not, and shall not permit any of their respective subsidiaries to, take any action that would, or that would reasonably be expected to, result in any condition set forth in Article VII not being satisfied prior to the End Date (other than as expressly permitted by Section 5.02, Section 5.03 or Section 8.01).

(d) Advice of Changes. Each of Parent and the Company shall promptly advise the other of any change or event, of which it has Knowledge, (i) having or reasonably likely to have a Parent Material Adverse Effect or a Company Material Adverse Effect, as the case may be or (ii) that would or would be reasonably likely to cause or constitute a material breach of any of its respective representations, warranties or covenants contained in this Agreement if such material breach would result in the failure of any condition set forth in Section 7.03(a) or Section 7.03(b), or Section 7.02(a) or Section 7.02(b), respectively, by the End Date, except that (A) no such notification will affect the representations, warranties or covenants of the parties (or remedies with respect thereto) or the conditions to the obligations of the parties under this Agreement and (B) a failure to comply with this Section 5.01(d) will not constitute the failure of any condition set forth in Article VII to be satisfied unless the underlying Parent Material Adverse Effect, Company Material Adverse Effect or material breach would independently result in the failure of a condition set forth in Article VII to be satisfied.

(e) Control of Operations. Nothing contained in this Agreement will give Parent or the Company, directly or indirectly, the right to direct or control the other party's and such party's subsidiaries' operations prior to the Effective Time. Prior to the Effective Time, each of Parent and the Company will exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its respective operations and the operations of its respective subsidiaries. Nothing in this Agreement, including any of the actions, rights or restrictions set forth herein, will be interpreted in such a way as to place Parent or the Company in violation of any applicable Law.

SECTION 5.02. No Solicitation by the Company.

(a) The Company shall not, nor shall it authorize or permit any Company Subsidiary to, nor shall it authorize or permit any officer, director or employee of, or any investment banker, attorney, accountant or other advisor, agent or representative (collectively, "Representatives") of the Company or any Company Subsidiary to, directly or indirectly (i) solicit, initiate, knowingly encourage, induce or facilitate, or furnish or disclose non-public information in furtherance of, any Company Takeover Proposal or any inquiry or proposal that would reasonably be expected to result in or lead to a Company Takeover Proposal, (ii) enter into any agreement with respect to any Company Takeover Proposal (except an Acceptable Confidentiality Agreement in accordance with this Section 5.02(a)) or (iii) enter into, participate in or continue any discussions or negotiations with any person (other than the Company's Representatives) regarding, or furnish or disclose to any person any non-public information with

respect to, or otherwise cooperate in any way with any person (whether or not a person making a Company Takeover Proposal) with respect to, any Company Takeover Proposal or any inquiry or proposal that would reasonably be expected to result in or lead to a Company Takeover Proposal; provided, however, that, prior to obtaining the Required Company Shareholder Approvals, the Company and its Representatives may, in response to a written Company Takeover Proposal that the Company Board or the Transaction Committee determines in good faith (after consultation with its outside legal counsel and financial advisor) is bona fide and constitutes, or is reasonably expected to result in or lead to, a Superior Proposal, and which Company Takeover Proposal was unsolicited, was made after the date of this Agreement and did not otherwise result from a breach of this Section 5.02(a), subject to compliance with Section 5.02(c), (x) furnish information with respect to the Company and the Company Subsidiaries to the person making such Company Takeover Proposal and its Representatives (provided that all such information has been provided to Parent or is provided to Parent prior to or substantially concurrent with the time it is provided to such person) pursuant to a customary confidentiality agreement not less restrictive of the person making the Company Takeover Proposal and its Representatives than the Confidentiality Agreement (an "Acceptable Confidentiality Agreement") and (y) participate in discussions regarding the terms of such Company Takeover Proposal and the negotiation of such terms with, and only with, the person (or group of persons) making such Company Takeover Proposal and its Representatives, in each case if and so long as the Company Board or the Transaction Committee, as applicable, determines in good faith after consultation with its outside legal counsel that providing such information or engaging in such negotiations or discussions is reasonably likely to be required for the directors to comply with their fiduciary duties under applicable Law. Without limiting the foregoing, it is agreed that any violation of the restrictions set forth in this Section 5.02(a) by any Representative or affiliate of the Company or any Company Subsidiary, whether or not such person is purporting to act on behalf of the Company or any Company Subsidiary or otherwise, shall be deemed to be a breach of this Section 5.02(a) by the Company. Upon execution of this Agreement, the Company shall, and shall cause each Company Subsidiary and its and their Representatives to, (A) immediately cease and cause to be terminated all discussions or negotiations with any person conducted prior to the date of this Agreement with respect to a Company Takeover Proposal or any inquiry or proposal that would reasonably be expected to result in or lead to a Company Takeover Proposal, (B) promptly request each person, if any, that has executed a confidentiality agreement in the last 12 months in respect of a Company Takeover Proposal to return or destroy all information heretofore furnished to such person or its Representatives by or on behalf of the Company or any Company Subsidiary and (C) reasonably promptly terminate all physical and electronic data room access previously granted to any person or its Representatives.

(b) Neither the Company Board nor the Transaction Committee or any other committee thereof will (i) (A) withhold or withdraw (or modify or qualify in any manner adverse to Parent), or propose publicly to withhold or withdraw (or modify or qualify in any manner adverse to Parent), the Company Recommendation or (B) approve, recommend or declare advisable, or propose publicly to approve, recommend or declare advisable, any Company Takeover Proposal (any action in this clause (i) being referred to as a "Company Adverse Recommendation Change") or (ii) approve, recommend or declare advisable, or propose publicly to approve, recommend or declare advisable, or allow the Company or any of the Company Subsidiaries to execute or enter into, any letter of intent, memorandum of understanding, agreement in principle, merger agreement, acquisition agreement, option agreement, joint

venture agreement, alliance agreement, partnership agreement or other similar Contract or arrangement (other than an Acceptable Confidentiality Agreement pursuant to Section 5.02(a)) constituting or relating to, or that is intended to or would reasonably be expected to result in or lead to, any Company Takeover Proposal, or requiring, or that would reasonably be expected to cause, the Company to abandon, terminate, delay or fail to consummate, or that would otherwise impede, interfere with or be inconsistent with, the Transactions, or requiring, or that would reasonably be expected to cause, the Company to fail to comply with this Agreement. Notwithstanding the foregoing or anything else to the contrary herein, at any time prior to obtaining the Required Company Shareholder Approvals, the Company Board or the Transaction Committee may make a Company Adverse Recommendation Change only if the Company Board or Transaction Committee, as applicable, determines in good faith, after consultation with its outside legal counsel and financial advisor and after giving effect to all of the adjustments to the terms of this Agreement that have been offered in writing by Parent in accordance with this Section 5.02(b), that the failure to do so would be inconsistent with its fiduciary duties under applicable Law; provided, however, that neither the Company Board nor the Transaction Committee will be entitled to exercise its rights to make a Company Adverse Recommendation Change unless (x) the Company delivers to Parent a written notice (a "Company Notice") advising Parent that the Company Board or the Transaction Committee, as applicable, intends to take such action and specifying the reasons therefor, including, in the case of a Superior Proposal, (A) the identity of the party making such Superior Proposal, (B) the material terms and conditions of the Superior Proposal that is the basis of the proposed action by the Company Board and (C) a copy of the most current version of any proposed definitive agreement(s) with respect to any such Superior Proposal and (y) at or after 5:00 p.m., New York City time, on the fourth Business Day following the day on which the Company delivered the Company Notice (it being understood that for purposes of calculating such four Business Days, the first Business Day will be the first Business Day after the date of such delivery), the Company Board or the Transaction Committee, as applicable, reaffirms in good faith (after consultation with its outside legal counsel and financial advisor) that (1) in the case of a Superior Proposal, such Company Takeover Proposal continues to constitute a Superior Proposal and (2) the failure to make a Company Adverse Recommendation Change would be inconsistent with its fiduciary duties under applicable Law (it being understood and agreed that any change in the financial terms or any other material amendment to the terms and conditions of such Superior Proposal will require a new Company Notice and a new two Business Day period (it being understood that any such two Business Day period will be calculated in the same manner as the initial four Business Day period)). In determining whether to make a Company Adverse Recommendation Change, the Company Board and the Transaction Committee will take into account any changes to the terms of this Agreement proposed in writing by Parent by 5:00 p.m., New York City time, on the last Business Day of the applicable four Business Day period or two Business Day period, as applicable, in response to a Company Notice, and if requested by Parent, the Company will, and will cause its Representatives to, engage in good faith negotiations with Parent and its Representatives to make such adjustments in the terms and conditions of this Agreement so that any Company Takeover Proposal would cease to constitute a Superior Proposal or that such failure to make a Company Adverse Recommendation Change would cease to be inconsistent with the Company Board's or Transaction Committee's, as applicable, fiduciary duties under applicable Law. Notwithstanding any Company Adverse Recommendation Change, if the Required Company Shareholder Approvals are obtained, the requirement that the Other Directors

(as defined in the Governance Agreement) have approved the Transactions for purposes of Section 2.07 of the Governance Agreement shall be deemed to have been satisfied.

(c) In addition to the obligations of the Company set forth in paragraphs (a) and (b) of this Section 5.02, the Company shall promptly, and in any event within 24 hours, advise Parent in writing of any Company Takeover Proposal or any request for non-public information or inquiry that would reasonably be expected to result in, lead to or that contemplates a Company Takeover Proposal, the identity of the person making any such Company Takeover Proposal, request or inquiry and the material terms of any such Company Takeover Proposal, request or inquiry. The Company shall (i) keep Parent informed in all material respects on a reasonably current basis of the status, including any change to the material terms of, any such Company Takeover Proposal, and (ii) provide to Parent as soon as practicable after receipt or delivery thereof with copies of any draft definitive agreements or term sheets sent or provided to the Company from any third party in connection with any Company Takeover Proposal or sent or provided by the Company to any third party in connection with any Company Takeover Proposal.

(d) Nothing contained in this Section 5.02 shall prohibit the Company from complying with Rule 14e-2(a) and Rule 14d-9 promulgated under the Exchange Act or from making any other disclosure to the holders of Company Capital Stock if, in the good-faith judgment of the Company Board or the Transaction Committee, after consultation with its respective outside legal counsel, failure so to disclose would be inconsistent with its obligations under applicable Law; provided, however, that (x) in no event shall the Company, the Company Board or the Transaction Committee or any other committee thereof take, or agree to take, any action prohibited by Section 5.02(b) and (y) any public disclosure made by or on behalf of the Company that refers to a Company Takeover Proposal will be deemed to be a Company Adverse Recommendation Change (including for purposes of Section 8.01(d)) unless the Company Board expressly reaffirms the Company Recommendation in such disclosure.

(e) For purposes of this Agreement:

"Company Takeover Proposal" means any inquiry, proposal or offer (whether or not in writing) with respect to any (i) tender offer or exchange offer, merger, amalgamation, arrangement, consolidation, share exchange, other business combination or similar transaction involving the Company or any Company Subsidiary, pursuant to which any person or group of persons (or affiliates thereof) would acquire 25% or more of the consolidated revenues, net income, earnings before interest expense, taxes, depreciation and amortization ("EBITDA") or assets of the Company and the Company Subsidiaries, taken as a whole, (ii) sale, lease, contribution or other disposition, directly or indirectly (including by way of merger, consolidation, share exchange, other business combination, partnership, joint venture, sale of capital stock of or other equity interests in a Company Subsidiary or otherwise) of any business or assets of the Company or the Company Subsidiaries representing 25% or more of the consolidated revenues, net income, EBITDA or assets of the Company and the Company Subsidiaries, taken as a whole, (iii) issuance, sale or other disposition, directly or indirectly, to any person or group of persons (or affiliates or stockholders thereof) of securities (or options, rights or warrants to purchase, or securities convertible into or exchangeable for, such securities)

representing 25% or more of the voting power of the Company, (iv) transaction in which any person or group of persons (or affiliates or stockholders thereof) will acquire, directly or indirectly, beneficial ownership, or the right to acquire beneficial ownership, or formation of any group which has beneficial ownership or has the right to acquire beneficial ownership, of 25% or more of the voting power of the Company or (v) combination of the foregoing (in each case, other than the Transactions).

"Superior Proposal" means any bona fide binding written offer (not solicited by or on behalf of the Company or any Company Subsidiary or any of their respective Representatives or otherwise resulting from a breach of Section 5.02(a)) made by a third party after the date of this Agreement that, if consummated, would result in such third party (or its shareholders) owning, directly or indirectly, a majority of the voting power of the Company Capital Stock then outstanding (or of the stock of the surviving entity in a merger or the direct or indirect parent of the surviving entity in a merger) or a majority of the assets of the Company and the Company Subsidiaries, taken as a whole, which the Company Board or the Transaction Committee, determines in good faith (after consultation with its outside legal counsel and financial advisor) to be (i) more favorable to the holders of Company Common Stock from a financial point of view than the Merger and the other Transactions (taking into account all of the terms and conditions of, and the likelihood of completion of, such proposal and this Agreement (including any changes to the financial terms of this Agreement proposed by Parent in response to such offer or otherwise)) and (ii) reasonably capable of being completed, taking into account all financial, legal, regulatory and other aspects of such proposal.

SECTION 5.03. No Solicitation by Parent.

(a) Parent shall not, nor shall it authorize or permit any Parent Subsidiary to, nor shall it authorize or permit any Representative of Parent or any Parent Subsidiary to, directly or indirectly (i) solicit, initiate, knowingly encourage, induce or facilitate, or furnish or disclose non-public information in furtherance of, any Parent Alternative Proposal or any inquiry or proposal that would reasonably be expected to result in or lead to a Parent Alternative Proposal, (ii) enter into any agreement with respect to any Parent Alternative Proposal (except an Acceptable Confidentiality Agreement in accordance with this Section 5.03(a)) or (iii) enter into, participate in or continue any discussions or negotiations with any person (other than the Parent's Representatives) regarding, or furnish or disclose to any person any non-public information with respect to, or otherwise cooperate in any way with any person (whether or not a person making a Parent Alternative Proposal) with respect to, any Parent Alternative Proposal or any inquiry or proposal that would reasonably be expected to result in or lead to a Parent Alternative Proposal; provided, however, that, prior to obtaining the Parent Shareholder Approval, Parent and its Representatives may, in response to a written Parent Alternative Proposal that the Parent Board determines in good faith (after consultation with its outside legal counsel and financial advisor) is bona fide and constitutes, or is reasonably expected to result in or lead to, a Superior Parent Alternative Proposal, and which Parent Alternative Proposal was unsolicited, was made after the date of this Agreement and did not otherwise result from a breach of this Section 5.03(a), subject to compliance with Section 5.03(c), (x) furnish information with respect to Parent and the Parent Subsidiaries to the person making such Parent Alternative Proposal and its Representatives (provided that all such information has been provided to the Company or is provided to the

Company prior to or substantially concurrent with the time it is provided to such person) pursuant to a customary confidentiality agreement not less restrictive of the person making the Parent Alternative Proposal and its Representatives than the Confidentiality Agreement (a "Parent Acceptable Confidentiality Agreement") and (y) participate in discussions regarding the terms of such Parent Alternative Proposal and the negotiation of such terms with, and only with, the person (or group of persons) making such Parent Alternative Proposal and its Representatives, in each case if and so long as the Parent Board determines in good faith after consultation with its outside legal counsel that providing such information or engaging in such negotiations or discussions is reasonably likely to be required for the directors to comply with their fiduciary duties under applicable Law. Without limiting the foregoing, it is agreed that any violation of the restrictions set forth in this Section 5.03(a) by any Representative or affiliate of Parent or any Parent Subsidiary, whether or not such person is purporting to act on behalf of the Parent or any Parent Subsidiary or otherwise, shall be deemed to be a breach of this Section 5.03(a) by Parent. Upon execution of this Agreement, Parent shall, and shall cause each Parent Subsidiary and its and their Representatives to, (A) immediately cease and cause to be terminated all discussions or negotiations with any person conducted prior to the date of this Agreement with respect to a Parent Alternative Proposal or any inquiry or proposal that would reasonably be expected to result in or lead to a Parent Alternative Proposal, (B) promptly request each person, if any, that has executed a confidentiality agreement in the last 12 months in respect of a Parent Alternative Transaction to return or destroy all information heretofore furnished to such person or its Representatives by or on behalf of Parent or any Parent Subsidiary and (C) reasonably promptly terminate all physical and electronic data room access previously granted to any person or its Representatives.

(b) Neither the Parent Board nor any committee thereof will (i) (A) withhold or withdraw (or modify or qualify in any manner adverse to the Company), or propose publicly to withhold or withdraw (or modify or qualify in any manner adverse to the Company), the Parent Recommendation or (B) approve, recommend or declare advisable, or propose publicly to approve, recommend or declare advisable, any Parent Alternative Proposal (any action in this clause (i) being referred to as a "Parent Adverse Recommendation Change") or (ii) approve, recommend or declare advisable, or propose publicly to approve, recommend or declare advisable, or allow Parent or any of the Parent Subsidiaries to execute or enter into, any letter of intent, memorandum of understanding, agreement in principle, merger agreement, acquisition agreement, option agreement, joint venture agreement, alliance agreement, partnership agreement or other similar Contract or arrangement (other than a Parent Acceptable Confidentiality Agreement pursuant to Section 5.03(a)) constituting or relating to, or that is intended to or would reasonably be expected to result in or lead to, any Parent Alternative Proposal, or requiring, or that would reasonably be expected to cause, Parent to abandon, terminate, delay or fail to consummate, or that would otherwise impede, interfere with or be inconsistent with, the Transactions, or requiring, or that would reasonably be expected to cause, Parent to fail to comply with this Agreement. Notwithstanding the foregoing or anything else to the contrary herein, at any time prior to obtaining the Parent Shareholder Approval, the Parent Board may make a Parent Adverse Recommendation Change only if the Parent Board determines in good faith, after consultation with its outside legal counsel and financial advisor and after giving effect to all of the adjustments to the terms of this Agreement that have been offered in writing by the Company in accordance with this Section 5.03(b), that the failure to do so would be inconsistent with its fiduciary duties under applicable Law; provided, however, that

the Parent Board will not be entitled to exercise its rights to make a Parent Adverse Recommendation Change unless (x) Parent delivers to the Company a written notice (a "Parent Notice") advising the Company that the Parent Board intends to take such action and specifying the reasons therefor, including, in the case of a Superior Parent Alternative Proposal, (A) the identity of the party making such Superior Parent Alternative Proposal, (B) the material terms and conditions of the Superior Parent Alternative Proposal that is the basis of the proposed action by the Parent Board and (C) a copy of the most current version of any proposed definitive agreement(s) with respect to any such Superior Parent Alternative Proposal and (y) at or after 5:00 p.m., New York City time, on the fourth Business Day following the day on which Parent delivered the Parent Notice (it being understood that for purposes of calculating such four Business Days, the first Business Day will be the first Business Day after the date of such delivery), the Parent Board reaffirms in good faith (after consultation with its outside legal counsel and financial advisor) that (1) in the case of a Superior Parent Alternative Proposal, such Parent Alternative Proposal continues to constitute a Superior Parent Alternative Proposal and (2) the failure to make a Parent Adverse Recommendation Change would be inconsistent with its fiduciary duties under applicable Law (it being understood and agreed that any change in the financial terms or any other material amendment to the terms and conditions of such Superior Parent Alternative Proposal will require a new Parent Notice and a new two Business Day period (it being understood that any such two Business Day period will be calculated in the same manner as the initial four Business Day period)). In determining whether to make a Parent Adverse Recommendation Change, the Parent Board will take into account any changes to the terms of this Agreement proposed in writing by the Company by 5:00 p.m., New York City time, on the last Business Day of the applicable four Business Day period or two Business Day period, as applicable, in response to a Parent Notice, and if requested by the Company, Parent will, and will cause its Representatives to, engage in good faith negotiations with the Company and its Representatives to make such adjustments in the terms and conditions of this Agreement so that any Parent Alternative Proposal would cease to constitute a Superior Parent Alternative Proposal or that such failure to make a Parent Adverse Recommendation Change would cease to be inconsistent with the Parent Board's fiduciary duties under applicable Law.

(c) In addition to the obligations of Parent set forth in paragraphs (a) and (b) of this Section 5.03, Parent shall promptly, and in any event within 24 hours, advise the Company in writing of any Parent Alternative Proposal or any request for material, non-public information or inquiry that would reasonably be expected to result in, lead to or that contemplates a Parent Alternative Proposal, the identity of the person making any such Parent Alternative Proposal, request or inquiry and the material terms of any such Parent Alternative Proposal, request or inquiry. Parent shall (i) keep the Company informed in all material respects on a reasonably current basis of the status, including any change to the material terms of, any such Parent Alternative Proposal, and (ii) provide to the Company as soon as practicable after receipt or delivery thereof with copies of any draft definitive agreements or term sheets sent or provided to Parent from any third party in connection with any Parent Alternative Proposal or sent or provided by Parent to any third party in connection with any Parent Alternative Proposal.

(d) Nothing contained in this Section 5.03 shall prohibit Parent from making any disclosure to the holders of Parent Ordinary Shares if, in the good-faith judgment of the Parent Board, after consultation with its outside legal counsel, failure so to disclose would be inconsistent with its obligations under applicable Law; provided, however, that (x) in no event

shall Parent or the Parent Board or any committee thereof take, or agree to take, any action prohibited by Section 5.03(b) and (y) any public disclosure made by or on behalf of Parent that refers to a Parent Alternative Proposal will be deemed to be a Parent Adverse Recommendation Change (including for purposes of Section 8.01(f)) unless the Parent Board expressly reaffirms the Parent Recommendation in such disclosure.

(e) For purposes of this Agreement:

"Parent Alternative Proposal" means any inquiry, proposal or offer (whether or not in writing) with respect to any Parent Alternative Transaction.

"Parent Alternative Transaction" means (i) any (A) tender offer or exchange offer, merger, amalgamation, arrangement, consolidation, share exchange, other business combination or similar transaction involving Parent or any Parent Subsidiary, pursuant to which any person or group of persons (or affiliates thereof) would acquire 25% or more of the consolidated revenues, net income, EBIDTA or assets of Parent and the Parent Subsidiaries, taken as a whole, (B) sale, lease, contribution or other disposition, directly or indirectly (including by way of merger, consolidation, share exchange, other business combination, partnership, joint venture, sale of capital stock of or other equity interests in a Parent Subsidiary or otherwise) of any business or assets of Parent or the Parent Subsidiaries representing 25% or more of the consolidated revenues, net income, EBITDA or assets of Parent and the Parent Subsidiaries, taken as a whole, (C) issuance, sale or other disposition, directly or indirectly, to any person or group of persons (or affiliates or stockholders thereof) of securities (or options, rights or warrants to purchase, or securities convertible into or exchangeable for, such securities) representing 25% or more of the voting power of Parent, (D) transaction in which any person or group of persons (or affiliates or stockholders thereof) will acquire, directly or indirectly, beneficial ownership, or the right to acquire beneficial ownership, or formation of any group which has beneficial ownership or has the right to acquire beneficial ownership, of 25% or more of the voting power of Parent or (E) combination of the foregoing, in the case of each of the foregoing clauses (A) through (E), that would require, or that would reasonably be expected to cause, Parent to abandon, terminate, materially delay or fail to consummate the Transactions or that would otherwise be reasonably expected to cause a condition set forth in Article VII to be unsatisfied prior to the End Date, or (ii) any transaction (including any merger, consolidation, share exchange, other business combination, partnership, joint venture, sale or acquisition of capital stock of or other equity interests in any entity) involving Parent, any Parent Subsidiary or their respective assets that (A) is not in the ordinary course of business, (B) is a transaction comparable to the Transactions and (C) would require, or that would reasonably be expected to cause, Parent to terminate, materially delay or fail to consummate the Transactions or that would otherwise be reasonably expected to cause a condition set forth in Article VII to be unsatisfied prior to the End Date.

"Superior Parent Alternative Proposal" means any bona fide binding written offer (not solicited by or on behalf of Parent or any Parent Subsidiary or any of their respective Representatives or otherwise resulting from a breach of Section 5.03(a)) made by a third party with respect to a Parent Alternative Transaction after the date of this Agreement,

which the Parent Board, determines in good faith (after consultation with its outside legal counsel and financial advisor) to be (i) more favorable to the holders of Parent Ordinary Shares from a financial point of view than the Merger and the other Transactions (taking into account all of the terms and conditions of, and the likelihood of completion of, such proposal and this Agreement (including any changes to the financial terms of this Agreement proposed by the Company in response to such offer or otherwise)) and (ii) reasonably capable of being completed, taking into account all financial, legal, regulatory and other aspects of such proposal.

SECTION 5.04. Parent Recommendation and Vote. Notwithstanding any Parent Adverse Recommendation Change, Parent shall vote (or cause the applicable Parent Subsidiary to vote), in person or by proxy, or deliver a written consent (or cause the applicable Parent Subsidiary to deliver a written consent) covering, all shares of Company Common Stock that are owned by Parent or any Parent Subsidiary (other than, for the avoidance of doubt, any such shares held by any Parent Share Plan or any trustee or other fiduciary in such capacity under any Parent Share Plan) as of the record date for the Company Shareholders Meeting, in favor of adoption of the Plan of Merger and any other action of the holders of Company Common Stock requested by the Company in furtherance thereof (other than the Unaffiliated Shareholder Approval).

SECTION 5.05. Company Subsidiary Vote. Notwithstanding any Company Adverse Recommendation Change, to the extent such shares are entitled to vote on the Plan of Merger under Section 55-7-21(b) of the NCBCA, the Company shall cause any applicable Company Subsidiary to vote, in person or by proxy, or to deliver a written consent covering, all shares of Company Capital Stock that are owned by such Company Subsidiary (other than, for the avoidance of doubt, any such shares held by any Company Benefit Plan or any trustee or other fiduciary in such capacity under any Company Benefit Plan) as of the record date for the Company Shareholders Meeting in favor of adoption of the Plan of Merger and any other action of the holders of Company Capital Stock requested by the Company in furtherance thereof.

ARTICLE VI

Additional Agreements

SECTION 6.01. Preparation of Proxy Statement, Form F-4 and Parent Circular; Shareholders Meeting.

(a) As soon as reasonably practicable following the date of this Agreement, the Company shall prepare and file with the SEC the Proxy Statement in preliminary form and Parent shall prepare and file with the SEC the Form F-4. Parent shall also cause the depositary of the Parent ADSs to prepare and file with the SEC, no later than the date prescribed by the rules and regulations under the Securities Act, the Form F-6. Parent and the Company shall make available to each other all information, and provide such other assistance, as may be reasonably requested in connection with the preparation, filing and distribution of the Proxy Statement and the Form F-4, and each of Parent and the Company shall use its reasonable best efforts to respond as promptly as reasonably practicable to any comments of the SEC with respect thereto and to have the Proxy Statement cleared by the SEC, and the Form F-4 declared

effective by the SEC, in each case as promptly as reasonably practicable. As soon as reasonably practicable following the date of this Agreement, and concurrently with preparing and filing the Proxy Statement and Form F-4, Parent and the Company shall cooperate to prepare and file with the SEC the Schedule 13E-3 and make available to each other all information reasonably requested with respect thereto, and each of Parent and the Company shall use its reasonable best efforts to respond as promptly as reasonably practicable to any comments of the SEC with respect thereto and to have the Schedule 13E-3 cleared by the SEC as promptly as reasonably practicable. Parent and the Company shall notify each other promptly of the receipt of any comments from the SEC or its staff and of any request by the SEC or its staff for amendments or supplements to the Proxy Statement, Form F-4 or Schedule 13E-3 or for additional information and promptly shall supply each other with copies of all correspondence between it or any of its Representatives, on the one hand, and the SEC or its staff, on the other hand, with respect to the Proxy Statement, Form F-4 or the Schedule 13E-3. Notwithstanding the foregoing, prior to filing or mailing the Schedule 13E-3, the Proxy Statement or Form F-4 (or any amendment or supplement thereto) or responding to any comments of the SEC with respect thereto, each of Parent and the Company, as the case may be, (i) shall provide the other party with a reasonable opportunity to review and comment on such document or response (including the proposed final version of such document or response), (ii) shall consider in good faith all comments reasonably proposed by such other party and (iii) shall not file or mail such document or respond to the SEC prior to receiving such other party's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Each of the Company and Parent will advise the other, promptly after receipt of notice thereof, of the time of effectiveness of the Form F-4, the issuance of any stop order relating thereto or the suspension of the qualification of the Parent ADSs to be issued as Merger Consideration (or the underlying Parent Ordinary Shares) for offering or sale in any jurisdiction, and each of the Company and Parent will use its reasonable best efforts to have any such stop order or suspension lifted, reversed or otherwise terminated. Each of the Company and Parent will also take any other action (other than qualifying to do business in any jurisdiction in which it is not now so qualified) required to be taken under the Securities Act, the Exchange Act, any applicable state securities or "blue sky" laws and the rules and regulations thereunder in connection with the Transactions.

(b) If, prior to (i) receipt of the Required Company Shareholder Approvals in the case of the Proxy Statement or Schedule 13E-3 or (ii) the Effective Time in the case of the Form F-4, any event or change occurs that is required to be described in an amendment of, or a supplement to, the Schedule 13E-3, Proxy Statement or Form F-4, Parent or the Company, as the case may be, shall promptly notify the other party of such event or change, and Parent and the Company shall cooperate to promptly prepare and file with the SEC any necessary amendment or supplement to the Schedule 13E-3, Proxy Statement or Form F-4 and, as required by applicable Law, disseminate the information contained in such amendment or supplement to the Company's shareholders.

(c) The Company shall, as soon as reasonably practicable following effectiveness of the Form F-4 (but subject to Section 6.01(g)), duly call, give notice of, convene and hold a meeting of its shareholders (the "Company Shareholders Meeting") for the sole purpose of seeking the Required Company Shareholder Approvals and, if applicable, the advisory vote required by Rule 14a-21(c) under the Exchange Act in connection therewith. The Company shall use its reasonable best efforts to cause the Proxy Statement, together with the

Schedule 13E-3 and the Form F-4, to be mailed to the Company's shareholders as soon as reasonably practicable after the Form F-4 is declared effective under the Securities Act, in accordance with applicable Law, the Company Charter and the Company Bylaws. The Proxy Statement mailed to the holders of Company Capital Stock shall include the notice of appraisal rights required to be delivered by the Company pursuant to Article 13 of the NCBCA that complies with all applicable Law. The Company shall also include the Company Recommendation in the Proxy Statement and the Company Board shall solicit the approval of this Agreement by the holders of Company Capital Stock, except to the extent that the Company Board or the Transaction Committee shall have made a Company Adverse Recommendation Change as permitted by Section 5.02(b). Notwithstanding the foregoing, and subject to compliance with any requirements of applicable Law, the Company Charter and the Company Bylaws, if the Company reasonably believes that (i) it is necessary to postpone or adjourn the Company Shareholders Meeting to ensure that any required amendment or supplement to the Proxy Statement is mailed to the holders of Company Capital Stock within a reasonable amount of time in advance of the Company Shareholders Meeting, (ii) such postponement or adjournment is required by Law or a court or other Governmental Entity of competent jurisdiction in connection with any Actions in connection with this Agreement or the Transactions or has been requested by the SEC or its staff, or (iii)(A) the Company will not receive proxies sufficient to obtain the Required Company Shareholder Approvals, whether or not a quorum is present, or (B) the Company will not have sufficient shares of Company Common Stock present in person or by proxy to constitute a quorum necessary to conduct the business of the Company Shareholders Meeting, then the Company, after consultation with Parent, may postpone or adjourn, or make one or more successive postponements or adjournments of, the Company Shareholders Meeting, so long as, in the case of any postponement or adjournment under clause (iii) of this Section 6.01(c), the date of the Company Shareholders Meeting is not postponed or adjourned more than an aggregate of 30 calendar days without the prior written consent of Parent (such consent not to be unreasonably withheld, conditioned or delayed). In the event that during the five Business Days prior to the date that the Company Shareholders Meeting is then scheduled to be held, the Company delivers a notice of an intent to make a Company Adverse Recommendation Change, Parent may direct the Company to postpone the Company Shareholders Meeting for up to six Business Days and, to the extent permitted by applicable Law, the Company Charter and the Company Bylaws, the Company shall promptly, and in any event no later than the next Business Day, postpone the Company Shareholders Meeting in accordance with Parent's direction, subject to the Company's right to postpone the Company Shareholders Meeting for a longer period pursuant to the immediately preceding sentence. Without limiting the generality of the foregoing, the Company agrees that its obligations pursuant to this Section 6.01(c) shall not be affected by the commencement, public proposal, public disclosure or communication to the Company of any Company Takeover Proposal or, other than with respect to the fourth sentence of this Section 6.01(c), the making of any Company Adverse Recommendation Change by the Company Board or the Transaction Committee.

(d) As soon as reasonably practicable following the date of this Agreement, Parent shall prepare and file with the UKLA for its approval a draft copy of the Parent Circular and the Parent Prospectus. The Company shall make available all information, and provide such other assistance, as Parent may reasonably request in connection with the preparation, filing and distribution of the Parent Circular and the Parent Prospectus, and will cause its accountants and

other relevant professional advisors to cooperate with Parent as is reasonably necessary to provide Parent with the financial and other information required for purposes of the Parent Circular and the Parent Prospectus. Parent shall use its reasonable best efforts to obtain formal approval of the Parent Circular and the Parent Prospectus from the UKLA prior to or concurrently with the effectiveness of the Form F-4. Parent shall notify the Company promptly of the receipt of any comments from the UKLA or its staff and of any request by the UKLA or its staff relating to the Parent Circular and the Parent Prospectus and promptly shall make available to the Company copies of all correspondence between it or any of its Representatives, on the one hand, and the UKLA or its staff, on the other hand, with respect to the Parent Circular and the Parent Prospectus. Notwithstanding the foregoing, prior to publishing the Parent Circular and the Parent Prospectus (or any amendment or supplement thereto), Parent (i) shall provide the Company with a reasonable opportunity to review and comment on the Parent Circular and the Parent Prospectus (including the proposed final version of the Parent Circular and the Parent Prospectus), (ii) shall consider in good faith all comments reasonably proposed by the Company and (iii) shall not publish the Parent Circular or the Parent Prospectus prior to receiving the Company's approval, which approval shall not be unreasonably withheld, conditioned or delayed.

(e) If, prior to (i) receipt of the Parent Shareholder Approval in the case of the Parent Circular or (ii) admission of the Parent Ordinary Shares constituting the Merger Consideration to the premium listing segment of the Official List of the UKLA in the case of the Parent Prospectus, any event or change occurs that is required to be described in an amendment of, or a supplement to, the Parent Circular or the Parent Prospectus, Parent or the Company, as the case may be, shall promptly notify the other party of such event or change, and Parent and the Company shall cooperate to promptly prepare and file with the UKLA any necessary amendment or supplement to the Parent Circular or the Parent Prospectus and, as required by applicable Law, publish or disseminate the information contained in such amendment or supplement to Parent's shareholders.

(f) Parent shall, as soon as reasonably practicable following the date on which the Parent Circular and the Parent Prospectus are approved by the UKLA (but subject to Section 6.01(g)), (i) duly call, give notice of, convene and hold the Parent Shareholders Meeting for the purpose of obtaining the Parent Shareholder Approval and (ii) mail the Parent Circular to the holders of Parent Ordinary Shares and publish the Parent Prospectus in accordance with applicable Law. Parent shall include the Parent Recommendation in the Parent Circular and the Parent Board shall solicit the approval of this Agreement and the issuance of the Parent Ordinary Shares underlying the Parent ADSs constituting the Merger Consideration by holders of Parent Ordinary Shares, except to the extent that the Parent Board shall have made a Parent Adverse Recommendation Change as permitted by Section 5.03(b). Notwithstanding the foregoing, and subject to compliance with any requirements of applicable Law and Parent's organizational documents, if Parent reasonably believes that (i) it is necessary to postpone or adjourn the Parent Shareholders Meeting to ensure that any required amendment or supplement to the Parent Circular and the Parent Prospectus is mailed to the holders of Parent Ordinary Shares and published, respectively, within a reasonable amount of time in advance of the Parent Shareholders Meeting, (ii) such postponement or adjournment is required by Law or a court or other Governmental Entity of competent jurisdiction in connection with any Actions in connection with this Agreement or the Transactions or (iii)(A) Parent will not receive proxies

sufficient to obtain the Parent Shareholder Approval, whether or not a quorum is present, or (B) Parent will not have a sufficient number of Parent Ordinary Shares present in person or by proxy to constitute a quorum necessary to conduct the business of the Parent Shareholders Meeting, then Parent, after consultation with the Company, may postpone or adjourn, or make one or more successive postponements or adjournments of, the Parent Shareholders Meeting, so long as, in the case of any postponement or adjournment under clause (iii) of this Section 6.01(f), the date of the Parent Shareholders Meeting is not postponed or adjourned more than an aggregate of 30 calendar days without the prior written consent of the Company (such consent not to be unreasonably withheld, conditioned or delayed). In the event that during the five Business Days prior to the date that the Parent Shareholders Meeting is then scheduled to be held, Parent delivers a notice of an intent to make a Parent Adverse Recommendation Change, the Company may direct Parent to postpone the Parent Shareholders Meeting for up to six Business Days and, to the extent permitted by applicable Law and Parent's organizational documents, Parent shall promptly, and in any event no later than the next Business Day, postpone the Parent Shareholders Meeting in accordance with the Company's direction, subject to Parent's right to postpone the Parent Shareholders Meeting for a longer period pursuant to the immediately preceding sentence. Without limiting the generality of the foregoing, Parent agrees that its obligations pursuant to this Section 6.01(f), other than with respect to the second sentence of this Section 6.01(f), shall not be affected by the making of any Parent Adverse Recommendation Change by the Parent Board.

(g) The parties will use their reasonable best efforts to hold the Company Shareholders Meeting and the Parent Shareholders Meeting on the same date.

(h) The Company acknowledges that Parent may seek a further Parent Shareholder Approval if due to material circumstances arising from the date of the Parent Shareholders Meeting until the Closing either Parent has been directed by a Governmental Entity to seek such further approval, or Parent determines in good faith (after consultation with its outside legal counsel) that it is necessary to seek such further approval for the purpose of complying with the Listing Rules, or the Company and Parent have agreed that Parent should seek such further approval.

SECTION 6.02. Access to Information; Confidentiality. Subject to applicable Law, each of Parent and the Company shall, and shall cause each of its respective subsidiaries to, afford to the other party and such party's Representatives, reasonable access, upon reasonable advance notice, during normal business hours during the period prior to the Effective Time to all of their respective properties, books, Contracts, Tax Returns, commitments, personnel and records; provided, however, that such access (A) shall not unreasonably disrupt the normal operations of any party, (B) shall be subject to any legal restrictions on a party's ability to provide any information (provided that the withholding party shall use its reasonable best efforts to obtain the required consent of such third party to such access) and (C) shall not result in a waiver of the attorney-client privilege or the protection of attorney work-product (provided that the withholding party shall use its reasonable best efforts to allow for such access (or as much of it as possible) in a manner that does not result in a loss of attorney client privilege). If any material is withheld by any party pursuant to the proviso to the preceding sentence, such party shall, to the extent possible without violating legal restrictions or risking a loss of attorney client privilege, inform the other party as to the general nature of what is being withheld. All

information exchanged pursuant to this Section 6.02 shall be subject to the Confidentiality Agreement.

SECTION 6.03. Reasonable Best Efforts; Notification. (a) Upon the terms and subject to the conditions set forth in this Agreement, each of the parties shall use its reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to consummate and make effective, as promptly as practicable, the Merger and the other Transactions, including (i) the taking of all reasonable acts necessary to cause the conditions set forth in Article VII to be satisfied as soon as reasonably practicable, (ii) the obtaining of all mandatory or appropriate nonactions and Consents from Governmental Entities and the making of all mandatory or appropriate registrations and filings (including filings with Governmental Entities, if any) and the taking of all reasonable steps as may be necessary to obtain a Consent from, or to avoid an Action by, any Governmental Entity, (iii) the obtaining of all mandatory or appropriate Consents from third parties, provided that no party shall be required or permitted to incur any significant expense or liability, enter into any significant new commitment or agreement or agree to any significant modification to any contractual arrangement to obtain any such Consents, (iv) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the Transactions, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Entity vacated or reversed and (v) the execution and delivery of any additional instruments mandatory or appropriate to consummate the Transactions and to fully carry out the purposes of this Agreement. In connection with and without limiting the foregoing, the Company and Parent shall duly file, in consultation and cooperation with the other parties hereto, with the U.S. Federal Trade Commission and the Antitrust Division of the Department of Justice the notification and report form (the "HSR Filing") required under the HSR Act with respect to the Transactions as promptly as practicable (and in any event within 15 Business Days) after the date of this Agreement. Each party shall cooperate with the other party to the extent necessary to assist the other party in the preparation of its HSR Filing and any other mandatory or appropriate Consents, to request early termination of the waiting period required by the HSR Act and, if requested, to promptly amend or furnish additional information with respect to the HSR Filing and any other mandatory or appropriate Consents.

(b) In connection with and without limiting the foregoing, the Company and the Company Board and Parent and the Parent Board shall (x) take all action necessary (including by granting any approvals) to ensure that no state takeover statute or similar statute or regulation is or becomes applicable to any Transaction or this Agreement and (y) if any state takeover statute or similar statute or regulation becomes applicable to any Transaction or this Agreement, take all action necessary (including by granting any approvals) to ensure that the Merger and the other Transactions may be consummated as promptly as practicable on the terms contemplated by this Agreement and otherwise to eliminate or minimize the effect of such statute or regulation on the Merger and the other Transactions.

(c) Notwithstanding this Section 6.03 or anything else to the contrary herein, Parent shall not be required to dispose of any of its assets or to limit its freedom of action with respect to any of its businesses, or to consent to any disposition of the Company's assets or limits on the Company's freedom of action with respect to any of its businesses or any other Antitrust

Restriction, or to commit or agree to any of the foregoing (each, a "Regulatory Requirement"), and the Company shall not, and nothing in Section 6.03(a) or Section 6.03(b) shall authorize the Company to, commit or agree to a Regulatory Requirement, to obtain any Consents in connection with, or to remove any impediments to the Transactions relating to, the HSR Act or other antitrust, competition or premerger notification, trade regulation law, regulation or order ("Antitrust Laws") or to avoid the entry of, or to effect the dissolution of, any injunction, temporary restraining order or other order in any Action relating to Antitrust Laws.

(d) Subject to applicable Law, each party shall consult and cooperate with one another, and consider in good faith the views of one another, in connection with obtaining all mandatory or appropriate nonactions and Consents from Governmental Entities, and each party shall (i) keep one another reasonably informed as to the status of and the processes and proceedings relating to obtaining nonactions and Consents from Governmental Entities, (ii) give prompt notice to the other party of any direct or indirect communication with a Governmental Entity in connection with the Transactions or with any person alleging that the consent of such person is or may be required in connection with the Transactions, in each case to the extent such other party is not aware of such matter, (iii) prior to making any direct or indirect substantive communication with a Governmental Entity or submission of any analyses, appearances, presentations, memoranda, briefs, arguments, opinions, or proposals to a Governmental Entity in connection with the Transactions, provide the other party and its counsel a reasonable opportunity to review, and shall consider in good faith the comments of the other party in connection with any such communications, analyses, appearances, presentations, memoranda, briefs, arguments, opinions, or proposals, and (iv) unless impractical, allow the other party to participate in any substantive teleconference or in-person meetings with a Governmental Entity in connection with the Transactions; provided, however, that no notification pursuant to this Section 6.03(d) shall affect the representations, warranties, covenants or agreements of the parties (or remedies with respect thereto) or the conditions to the obligations of the parties under this Agreement.

(e) Notwithstanding this Section 6.03 or anything else to the contrary herein, Parent shall, acting reasonably and in good faith, direct and control all aspects of the parties' efforts to obtain all mandatory or appropriate nonactions and Consents from Governmental Entities or in any Actions before any Governmental Entity relating to any Antitrust Laws; provided that (i) Parent shall provide the Company with reasonable prior notice of commitments or material actions that Parent proposes to undertake with any Governmental Entity in connection with such efforts and (ii) Parent shall consult with the Company and consider the Company's views with respect to such matters in good faith.

SECTION 6.04. Financing. (a) Subject to the terms and conditions of this Agreement, Parent shall use its reasonable best efforts to obtain the Financing on a timely basis including (to the extent the proceeds of the term loans thereunder are needed to consummate the Transactions) pursuant to the New Term Loan Facility and if all conditions to funding thereunder have been satisfied (it being understood and agreed that Parent shall use its reasonable best efforts to satisfy (or cause to be satisfied) all such conditions on a timely basis), causing the lenders under the New Term Loan Facility to consummate the Financing on or prior to the Closing Date on the terms and conditions described in the New Term Loan Facility (it being

understood that it is not a condition to Closing under this Agreement for Parent to obtain all or any portion of the Financing).

(b) Parent will keep the Company reasonably informed of the status of its efforts to arrange the Financing and to satisfy the conditions thereof, including (i) giving the Company prompt notice upon having Knowledge of any breach by any party to the New Term Loan Facility or any termination of the New Term Loan Facility and (ii) upon the Company's reasonable request, advising and updating the Company, in a reasonable level of detail, with respect to the status of the Financing and the anticipated closing of the Financing (which shall be at or prior to the Closing). Except as set forth in this Section 6.04, Parent shall not, without the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed), voluntarily reduce the committed principal amount of the New Term Loan Facility or amend, modify, supplement or waive any of the conditions or contingencies to funding contained in the New Term Loan Facility or any other provision of, or remedies under, the New Term Loan Facility, in each case to the extent such amendment, modification, supplement or waiver would reasonably be expected to have the effect of directly or indirectly (A) impairing the enforceability of the New Term Loan Facility or reducing the aggregate amount of debt financing under the New Term Loan Facility (except (x) as required thereby or (y) concurrently with the entry into alternative debt financing arrangements described in clause (x) of the proviso at the end of this clause (b), in equal amounts to, and having conditions to funding that are no less favorable to Parent than the New Term Loan Facility), (B) adversely affecting in any material respect the ability of Parent to timely consummate the Transactions, (C) amending, modifying, supplementing or waiving the conditions or contingencies to the Financing in a manner materially adverse to the Company or (D) materially delaying or impeding the Closing; provided that notwithstanding any other provision of this Agreement, Parent shall be entitled from time to time to (x) substitute other debt financing (in equal amounts to, and having conditions to funding that are no less favorable to Parent than the New Term Loan Facility) for all or any portion of the Financing from the same or alternative financing sources (including, for the avoidance of doubt, one or more issuances of debt securities; provided, that such debt securities shall not be convertible into, exchangeable for or otherwise linked to, any equity securities), and (y) amend, restate, replace, supplement or otherwise modify the New Term Loan Facility for the purpose of adding agents, co-agents, lenders, arrangers, bookrunners or other persons that have not executed the New Term Loan Facility as of the date of this Agreement, in each case, subject to subclauses (A), (B), (C) and (D) above.

(c) Upon any such amendment, restatement, replacement, supplement or modification, in accordance with the terms of this Section 6.04, the term "New Term Loan Facility" shall mean for all purposes of this Agreement the New Term Loan Facility as so amended, restated, replaced, supplemented or modified. Parent shall promptly make available to the Company true and complete copies of any such amendment, restatement, replacement, supplement or modification (with only the fee amounts and certain other provisions redacted, which redacted provisions shall not affect the principal amount or availability of the Financing).

(d) Upon the request of Parent, the Company shall provide, and shall cause the Company Subsidiaries to provide and shall use their respective reasonable best efforts to cause its and their Representatives to provide, all cooperation reasonably requested by Parent in connection with the arrangement of the Financing in connection with the Transactions,

including: (i) participation of the Company's senior officers in a reasonable number of meetings (including with prospective agents, co-agents, lenders, arrangers, bookrunners, underwriters and other financing sources), drafting sessions, due diligence sessions and rating agency presentations, in each case, to the extent reasonable and customary; (ii) making available to Parent and its underwriters and financing sources any historical financial statements of the Company and the Company Subsidiaries required to be included by Regulation S-X and Regulation S-K under the Securities Act in a registered offering of unsecured debt securities by Parent and any other information (financial or otherwise) regarding the Company that is reasonably available and reasonably necessary for Parent to prepare pro forma financial statements and projections or otherwise as is customarily provided in connection with any financing comparable to the Financing, as well as business and other financial information of the type required by Regulation S-X and Regulation S-K under the Securities Act in a registered offering of unsecured debt securities by Parent; (iii) assisting Parent and its underwriters and financing sources in the preparation of (A) a customary bank information memorandum (as well as a public-side version thereof) for the Financing, (B) materials for rating agency presentations and (C) prospectuses, offering memoranda and private placement memoranda, including using its reasonable best efforts to obtain any consents of accountants for use of their reports in any of the foregoing; provided that Parent shall be primarily responsible for the preparation of any such documentation; (iv) assisting Parent with the preparation of any definitive documents related to the Financing or any offering(s) of debt securities in lieu of the Financing (including any schedules thereto) as may be reasonably requested by Parent; provided that Parent shall be primarily responsible for the preparation of any such documentation; (v) executing and delivering (or using reasonable best efforts to obtain) customary certificates, accountants' comfort letters (including customary "negative assurance" comfort), consents, legal opinions and negative assurance letters in connection with the Financing; (vi) affording Parent's underwriters and financing sources with reasonable and customary access (on a reasonable and limited number of occasions), upon reasonable advance notice, during normal business hours to all of its properties, books, Contracts, Tax Returns, commitments, personnel and records; (vii) providing Parent's underwriters and financing sources with all documentation and other information required by regulatory authorities and as reasonably requested by Parent with respect to the Company in connection with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT; and (viii) consenting to the reasonable use of the Company's trademarks, service marks or logos in connection with the Financing prior to the Closing Date (subject to advance review of and consultation with respect of such use and so long as such marks or logos are used in a manner that is reasonable and customary for such purposes and that is not intended or reasonably likely to harm or disparage the Company or any Company Subsidiary or the reputation or goodwill of the Company or any Company Subsidiary or any of their respective products, services, offerings or intellectual property rights); provided that the Company shall not be required to pay any commitment or other similar fee or incur any other liability in connection with the Financing; provided, further, that the effectiveness of any documentation executed by the Company with respect thereto shall be subject to the consummation of the Merger and nothing in this Section 6.04 shall require any cooperation to the extent it would interfere unreasonably with the business or operations of the Company or the Company Subsidiaries. Parent acknowledges and agrees that none of the Company or any Company Subsidiary or any of their respective Representatives shall incur any liability or have any obligations to any person under or in connection with the Financing prior to the Closing.

(e) Notwithstanding anything herein to the contrary, the cooperation set forth in Section 6.04(d) shall not be required to the extent such cooperation (i) unreasonably disrupts the normal operations of the Company or any Company Subsidiary, (ii) would cause any breach of this Agreement or cause any condition of this Agreement to not be satisfied, (iii) conflict with, violate or breach any applicable Law or legal restriction, the charter or similar organizational documents of the Company or any Company Subsidiary or any material Contract to which the Company or any Company Subsidiary is a party or (iv) would result in a waiver of the attorney-client privilege or the protection of attorney work-product (provided that the withholding party shall use its reasonable best efforts to allow for such access (or as much of it as possible) in a manner that does not result in a loss of attorney client privilege). If any material is withheld by the Company pursuant to this Section 6.04(e), the Company shall, to the extent possible without violating legal restrictions or risking a loss of attorney client privilege, inform the Company as to the general nature of what is being withheld. All information exchanged pursuant to this Section 6.04 shall be subject to the Confidentiality Agreement.

(f) Except in the case of losses arising or resulting from fraud or intentional or willful misrepresentation, gross negligence, willful misconduct or willful concealment with respect to information provided by the Company or any Company Subsidiary in connection with the Financing, in each case, as determined by a final, non-appealable Judgment by a court of competent jurisdiction, Parent shall indemnify and hold harmless the Company, the Company Subsidiaries and its and their respective Representatives from and against any and all liabilities, losses, damages, claims, costs, expenses (including reasonable attorney's fees), interest, awards, judgments and penalties suffered or incurred by them in connection with the arrangement of the Financing or any offerings of debt securities in lieu of the Financing and any information utilized in connection therewith (other than information provided by or on behalf of the Company expressly for use in connection therewith) in each case, whether or not the Merger is consummated and/or this Agreement is terminated. Parent shall, promptly upon the request of the Company, reimburse the Company for all out-of-pocket costs or expenses reasonably incurred by the Company in connection with cooperation provided for in this Section 6.04.

SECTION 6.05. Equity-Based Compensation.

(a) At the Effective Time, each Cash-Out RSU outstanding immediately prior to the Effective Time, shall be canceled and converted into the right to receive the Merger Consideration for each share of Company Common Stock subject to such Cash-Out RSU (subject to the proviso below) and any dividend equivalent right in respect of such Cash-Out RSU, in full satisfaction of the rights of the applicable holder with respect thereto, subject to any required withholding Taxes (any such withholding Taxes shall be satisfied by having a portion of the Per Share Stock Consideration of the Merger Consideration retained by Parent or any Parent Subsidiary, such portion to have a value sufficient to satisfy such withholding Taxes, and, in the event the Per Share Stock Consideration has a value that is less than such withholding Taxes, an amount of cash payable to the holder of such award equal to the value of the remaining Tax withholding shall be retained by Parent or any Parent Subsidiary), provided that, in the case of any Cash-Out RSU that is also a Company Performance Share, the number of shares of Company Common Stock deemed to be subject to such Cash-Out RSU, shall be determined by the Company Board (or the applicable committee thereof) prior to the Effective Time in accordance with the applicable award agreement and after reasonable consultation with Parent

(for the avoidance of doubt, taking into account any pro ration required by such award agreement);

(b) At the Effective Time, each Company DSU outstanding immediately prior to the Effective Time, shall be canceled and converted into the right to receive the Merger Consideration (or such other form of payment as is required by the applicable Company Benefit Plan in an amount equal to the value of the Merger Consideration) for each share of Company Common Stock subject to such Company DSU, in full satisfaction of the rights of the applicable holder with respect thereto, subject to any required withholding Taxes (any such withholding Taxes shall be satisfied by having a portion of the Per Share Stock Consideration, if any, of the Merger Consideration retained by Parent or any Parent Subsidiary, such portion to have a value sufficient to satisfy such withholding Taxes, and, in the event the Per Share Stock Consideration has a value that is less than such withholding Taxes, an amount of cash payable to the holder of such award equal to the value of the remaining Tax withholding shall be retained by Parent or any Parent Subsidiary), provided that the timing of payment shall be made in accordance with the applicable award agreement and any deferral election made thereunder;

(c) At the Effective Time, each Rollover RSU outstanding immediately prior to the Effective Time shall be converted into a restricted stock unit of Parent with respect to a target number of Parent ADSs (rounded down to the nearest whole Parent ADS (with any fractional Parent ADSs settled in cash)) equal to the product of (i) the target number of shares of Company Common Stock subject to such Rollover RSU immediately prior to the Effective Time and (ii) the RSU Exchange Ratio subject to adjustment in accordance with Section 2.01(h) (each, an "Adjusted RSU"), subject to substantially the same terms and conditions as were applicable to such Rollover RSU immediately prior to the Effective Time (except that the form of payment upon vesting and settlement shall be in Parent ADSs rather than in shares of Company Common Stock), provided that, if such Rollover RSU was subject to performance-based vesting immediately prior to the Effective Time, then the performance conditions applicable to such Adjusted RSU and the number of Adjusted RSUs that may be earned at the end of the applicable performance period shall be determined in accordance with Section 5.01(a)(iv) of the Company Disclosure Letter.

(d) At the Effective Time, Parent shall assume all of the obligations of the Company under the Company Stock Plans, each Adjusted RSU and the agreements evidencing the grants thereof. As soon as practicable after the Effective Time, Parent shall deliver to the holders of Adjusted RSUs appropriate notices setting forth such holders' rights, and the agreements evidencing the grants of such Adjusted RSUs shall continue in effect on the same terms and conditions (subject to the adjustments required by this Section 6.05 after giving effect to the Merger).

(e) Prior to the Effective Time, the Company Board (or, if appropriate, any committee administering the Company Stock Plans) shall adopt such resolutions and take such other actions as may be required to effect the treatment of the Company Stock Awards described in paragraphs (a) through (e) of this Section 6.05. At the direction of Parent, payment of any cash amounts to be paid pursuant to this Section 6.05 may be made through the Company's (or the Surviving Corporation's) payroll, but in no event later than the second standard payroll cycle commencing after the Effective Time.

SECTION 6.06. Employee Benefit Matters.

(a) Following the Effective Time and until December 31, 2018, Parent shall, or shall cause the Surviving Corporation to, provide employees of the Company or any Company Subsidiary as of the Closing (the "Continuing Employees") with (i) annual base salary (including any portion of a Continuing Employee's annual base salary that is paid in a lump sum as a result of the cap imposed by the Company on the amount of annual base salary that may be paid to a Continuing Employee) and wages that are no less favorable than those provided to each Continuing Employee as of immediately prior to the Closing, (ii) annual target cash bonus opportunities (excluding any one-time, special or non-recurring bonus) that are no less favorable than those provided to each Continuing Employee as of immediately prior to the Closing, (iii) annual target equity-based opportunities (excluding any one-time, special or non-recurring equity-based awards) that are no less favorable in respect of value to those provided to each Continuing Employee as of immediately prior to Closing and (iv) other employee benefit plans, programs and arrangements (excluding change in control, transaction bonus and retention arrangements) that are substantially similar in the aggregate to those provided to each Continuing Employee as of immediately prior to the Closing.

(b) Parent shall, or shall cause the Surviving Corporation to, honor, in accordance with their terms, all Company Benefit Plans subject, in the case of each Company Benefit Plan, to the right of Parent, the Surviving Corporation or any subsidiary of either to amend or terminate any Company Benefit Plan in accordance with its terms.

(c) For purposes of vesting, eligibility to participate and level of benefits (but excluding benefit accrual for purposes of defined benefit plans) under the employee benefit plans, programs, policies and arrangements providing benefits to any Continuing Employee from and after the Closing Date (the "New Plans"), each Continuing Employee shall be credited with his or her years of service with the Company or any Company Subsidiary and their respective predecessors prior to the Closing, to the same extent credit for such service was provided under the Company Benefit Plans as of immediately prior to the Closing, to the extent such service credit would not result in the duplication of benefits under any New Plan. Without limiting the generality of the foregoing, (i) each Continuing Employee who ceases to be eligible to participate in a Company Benefit Plan shall immediately be eligible to participate, without any waiting period, in any corresponding New Plan to the extent such New Plan is comparable and intended to replace the benefits under any such Company Benefit Plan, (ii) for purposes of any New Plan providing benefits to any Continuing Employee, Parent shall cause all pre-existing condition limitations, exclusions and actively-at-work requirements of such New Plan to be waived for such Continuing Employee and such Continuing Employee's covered dependents, and (iii) to the extent Parent receives from the Company sufficient information, Parent shall cause any eligible expenses incurred by a Continuing Employee under a Company Benefit Plan during the calendar year in which the Closing Date occurs to be taken into account for purposes of satisfying such calendar year's deductible, co-payment or co-insurance and maximum out-of-pocket limitations under any relevant New Plans in which such Continuing Employee becomes eligible to participate during such calendar year, to the extent credited under the applicable Company Benefit Plan prior to the Effective Time.

(d) Parent and the Company, as applicable, shall cause

(i) all fiscal year 2016 bonus amounts under annual bonus, sales and other cash incentive plans of the Company and the Company Subsidiaries (the "FY2016 Bonuses") to be calculated and paid in the ordinary course of business consistent with past practice to the eligible Continuing Employees; provided, however, that if the Closing Date occurs prior to the date the FY2016 Bonuses are paid in the ordinary course, such bonus amounts shall be calculated based on actual results and performance achieved in respect of fiscal year 2016; and

(ii) all fiscal year 2017 bonus amounts under annual bonus, sales and other cash incentive plans of the Company and the Company Subsidiaries (the "FY2017 Bonuses") to be established and calculated in accordance with Section 5.01(a)(iv) of the Company Disclosure Letter and paid in the ordinary course of business consistent with past practice to the eligible Continuing Employees.

(e) Parent acknowledges and agrees that a "Change in Control" or "Change of Control" (or other similar phrase) within the meaning of any severance or equity incentive agreement, plan or other arrangement entered into, sponsored by or maintained by the Company or any Company Subsidiary, shall occur as of the Effective Time as a result of the consummation of the Merger contemplated by this Agreement.

(f) From and after the date of this Agreement, the Company will notify Parent promptly of any notice or other communication received by the Company or any Company Subsidiary from the Pension Benefit Guaranty Corporation (the "PBGC") under the PBGC's Early Warning Program regarding any defined benefit pension plan of the Company or any Company Subsidiary. In the event of any such notice or communication, the Company will consult with Parent with respect to any communications with the PBGC or its Representatives, in accordance with Section 6.06(f) of the Company Disclosure Letter.

(g) Without limiting the generality of Section 9.07, the provisions of this Section 6.06 are solely for the benefit of the parties hereto and no provision of this Section 6.06 shall (i) create any right in any Continuing Employee to continued employment by Parent, the Surviving Corporation, the Company or any of their respective subsidiaries or limit the ability of Parent, the Surviving Corporation, the Company or any of their respective subsidiaries to terminate the employment of any Continuing Employee, (ii) confer upon any Company Personnel any rights or remedies under or by reason of this Agreement, (iii) except as expressly required by their terms, require Parent, the Surviving Corporation, the Company or any of their respective subsidiaries to continue any Company Benefit Plans or New Plans, as applicable, or prevent the amendment, modification or termination thereof on or after the Closing Date in accordance with their terms or (iv) be treated as a restatement, amendment or waiver of or to any particular Company Benefit Plan or New Plan or other employee benefit plan.

(h) Within ten Business Days of the date hereof, the Company shall provide to Parent a true and complete list, as of the close of business on the date hereof, of (a) all outstanding Company RSUs, the number of shares of Company Common Stock with respect thereto, the grant dates and the names of the holders thereof and the vesting schedule of the Retention RSUs, (b) all outstanding Company DSUs, the number of shares of Company Common Stock with respect thereto, the grant dates and the names of the holders thereof

and (c) all outstanding Company Performance Shares, the number of shares of Company Common Stock with respect thereto at target level and maximum level and the grant dates thereof and the names of the holders thereof.

SECTION 6.07. Indemnification. (a) From and after the Effective Time, the Surviving Corporation will, and Parent will cause the Surviving Corporation to, (i) indemnify, defend and hold harmless, to the fullest extent permitted by applicable Law, all current or former directors and officers of the Company and the Company Subsidiaries and all fiduciaries under any Company Benefit Plan (each, together with such person's heirs, executors or administrators, a "Company Indemnified Party") against any costs, expenses (including reasonable attorneys' fees and expenses and disbursements), judgments, fines, losses, claims, damages or liabilities to the extent related to any claim or Action arising out of or pertaining to the fact that the Company Indemnified Party is or was a director or officer of the Company or any of the Company Subsidiaries or a fiduciary under any Company Benefit Plan or is or was serving at the request of the Company or any of the Company Subsidiaries as a director or officer of any other corporation, limited liability company, partnership, joint venture, trust or other business or non-profit enterprise (including any Company Benefit Plan) at or prior to the Effective Time whether asserted or claimed prior to, at or after the Effective Time (including with respect to acts or omissions occurring in connection with this Agreement and the consummation of the Transactions). Subject to applicable Law, the Surviving Corporation will, and Parent will cause the Surviving Corporation to, pay the fees and expenses of a Company Indemnified Party (including reasonable attorneys' fees and expenses and disbursements) in advance of the final disposition of any claim or Action that is the subject of the right to indemnification under this Section 6.07(a); provided, however, that such Company Indemnified Party undertakes to reimburse the Surviving Corporation for all amounts so advanced if a court of competent jurisdiction determines by a final, nonappealable Judgment that such Company Indemnified Party is not entitled to indemnification.

(b) From and after the Effective Time, Parent shall, to the fullest extent permitted by Law, cause the Surviving Corporation to honor all of the Company's and the Company Subsidiaries' obligations to indemnify (including any obligations to advance funds for expenses) each Company Indemnified Party and each past and present employee of the Company and any Company Subsidiary for acts or omissions by such persons occurring prior to the Effective Time to the extent that such obligations of the Company exist on the date of this Agreement, whether pursuant to the Company Charter, the Company Bylaws, individual indemnity agreements (copies of which have been made available by the Company to Parent prior to the date of this Agreement) or otherwise, and such obligations shall survive the Merger and shall continue in full force and effect in accordance with the terms of the Company Charter, the Company Bylaws and such individual indemnity agreements from the Effective Time until the expiration of the applicable statute of limitations with respect to any claims against such Company Indemnified Party arising out of such acts or omissions.

(c) The Company may in its discretion purchase a "tail" directors' and officers' liability insurance policy covering the six-year period from and after the Effective Time with respect to claims arising from or related to facts or events which occurred at or before the Effective Time; provided that without Parent's consent, the cost of such "tail" policy will not exceed 300% of the annual premiums paid as of the date of this Agreement by the Company for

such insurance (such 300% amount, the "Maximum Premium"). If the Company declines to purchase such a "tail" policy, Parent shall purchase such a "tail" policy or, at Parent's election in lieu of purchasing such a "tail" policy, for a period of six years after the Effective Time, cause to be maintained in effect the policies of directors' and officers' liability insurance maintained by the Company as of the date of this Agreement (provided that (i) Parent may substitute therefor policies with reputable and financially sound carriers of at least the same coverage and amounts containing terms and conditions which are no less advantageous and (ii) the Company shall cooperate with Parent in connection with obtaining such substitute policies, including by providing information reasonably requested by Parent in connection therewith) with respect to claims arising from or related to facts or events which occurred at or before the Effective Time; provided, however, that Parent shall not be obligated to purchase such a "tail" policy if the cost would exceed the Maximum Premium or make annual premium payments for such insurance to the extent such premiums exceed the Maximum Premium. If such insurance coverage cannot be obtained at all, or can only be obtained at an annual premium in excess of the Maximum Premium, Parent shall maintain the most advantageous policies of directors' and officers' insurance obtainable for an annual premium equal to the Maximum Premium. To the extent the Company elects to purchase a "tail" policy as described in this Section 6.07(c), the Company shall cooperate and consult with Parent in all respects in connection with obtaining such a "tail" policy, including by designating Parent as a successor in liability thereunder.

(d) In the event that Parent, the Surviving Corporation or any of their respective successors or assigns (i) consolidates with or merges into any other person and is not the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfers or conveys all or substantially all of its properties and assets to any person, then, and in each such case, Parent or the Surviving Corporation will cause proper provision to be made so that the successors and assigns of Parent or the Surviving Corporation, as the case may be, assume the obligations set forth in this Section 6.07.

(e) The provisions of this Section 6.07 (i) will survive consummation of the Merger, (ii) are intended to be for the benefit of, and will be enforceable by, each indemnified or insured party (including the Company Indemnified Parties), his or her heirs and his or her representatives and (iii) are in addition to, and not in substitution for, any other rights to indemnification or contribution that any such person may have by Law, contract or otherwise.

SECTION 6.08. Fees and Expenses.

(a) Except as provided below, all fees and expenses incurred in connection with the Merger and the other Transactions shall be paid by the party incurring such fees or expenses, whether or not the Merger is consummated.

(b) The Company will pay to Parent a fee equal to $1,000,000,000 (the "Company Termination Fee") if:

(i) Parent terminates this Agreement pursuant to Section 8.01(d); provided that if either the Company or Parent terminates this Agreement pursuant to Section 8.01(b)(i) or Section 8.01(b)(iii), in each case, at any time at which Parent would have been permitted

to terminate this Agreement pursuant to Section 8.01(d), this Agreement will be deemed terminated pursuant to Section 8.01(d) for purposes of this Section 6.08(b)(i); or

(ii) (A) this Agreement is terminated by either Parent or the Company pursuant to Section 8.01(b)(i) or Section 8.01(b)(iii) or Section 8.01(c), and, in the case of a termination pursuant to Section 8.01(b)(i), the conditions set forth in Sections 7.01(e) and 7.01(f) have been satisfied; provided that if either the Company or Parent terminates this Agreement pursuant to Section 8.01(b)(ii) at any time at which Parent would have been permitted to terminate this Agreement pursuant to Section 8.01(c), then this Agreement will be deemed terminated pursuant to Section 8.01(c) for purposes of this Section 6.08(b)(ii), (B) a Company Takeover Proposal has been made or made known to the Company or its shareholders after the date of this Agreement (whether or not conditional and whether or not withdrawn) but prior to the date of the Company Shareholders Meeting (in the case of Section 8.01(b)(iii)) or prior to the date this Agreement is terminated (in the case of Section 8.01(b)(i)) or prior to the breach giving rise to such right of termination (in the case of Section 8.01(c)), and (C) within 12 months after such termination, the Company or any Company Subsidiary enters into a definitive Contract with respect to, or consummates, such Company Takeover Proposal (solely for purposes of this Section 6.08(b)(ii), the term "Company Takeover Proposal" shall have the meaning set forth in the definition of Company Takeover Proposal contained in Section 5.02(e) except that all references in such definition to "25% or more" shall be deemed to be references to a majority).

Any Company Termination Fee due under this Section 6.08(b) shall be paid by wire transfer of same day funds to an account designated by Parent (x) in the case of a payment as a result of Section 6.08(b)(i), on the Business Day immediately following the date of termination of this Agreement and (y) in the case of a payment as a result of Section 6.08(b)(ii), upon the occurrence of an event set forth in Section 6.08(b)(ii)(C).

(c) Parent will pay to the Company the Parent Termination Fee (as defined below) if:

(i) the Company terminates this Agreement pursuant to Section 8.01(f); provided that if either the Company or Parent terminates this Agreement pursuant to (i) Section 8.01(b)(i) or Section 8.01(b)(iv), in each case, at any time at which the Company would have been permitted to terminate this Agreement pursuant to Section 8.01(f), then this Agreement will be deemed terminated pursuant to Section 8.01(f) for purposes of this Section 6.08(c)(i);

(ii) this Agreement is terminated by either Parent or the Company (A) pursuant to Section 8.01(b)(i) and at the time of such termination one or more of the conditions to Closing set forth in Section 7.01(e), Section 7.01(f) (but for purposes of Section 7.01(f) only if each Restraint giving rise to such non-satisfaction is attributable to an Antitrust Law) or Section 7.02(c) shall not have been satisfied, but all other conditions to Closing set forth in Section 7.01 and Section 7.02 shall be satisfied (or, in the case of any condition that by its nature is to be satisfied at the Closing, would be satisfied if the Closing were to occur on the date of such termination), or (B) pursuant to Section

8.01(b)(ii) if the Restraint giving rise to such non-satisfaction is attributable to an Antitrust Law; provided, however, that no Parent Termination Fee shall be payable pursuant to this Section 6.08(c)(ii) in the event that the Company has not complied in all material respects with its obligations under Section 6.03; or

(iii) (A) this Agreement is terminated by either Parent or the Company pursuant to Section 8.01(b)(i) or Section 8.01(b)(iv) or Section 8.01(e), and, in the case of a termination pursuant to Section 8.01(b)(i), the conditions set forth in Sections 7.01(e), 7.01(f) and 7.02(c) have been satisfied; provided that if either the Company or Parent terminates this Agreement pursuant to Section 8.01(b)(ii) at any time at which the Company would have been permitted to terminate this Agreement pursuant to Section 8.01(e), then this Agreement will be deemed terminated pursuant to Section 8.01(e) for purposes of this Section 6.08(c)(iii), (B) a Parent Alternative Transaction has been publicly proposed or announced or otherwise publicly disclosed after the date of this Agreement (whether or not conditional and whether or not withdrawn) but prior to the date of the Parent Shareholders Meeting (in the case of Section 8.01(b)(iv)) or prior to the date this Agreement is terminated (in the case of Section 8.01(b)(i)) or prior to the breach giving rise to such right of termination (in the case of Section 8.01(e)), and (C) within 12 months after such termination, Parent or any Parent Subsidiary enters into a definitive Contract with respect to, or consummates, such Parent Alternative Transaction (solely for purposes of this Section 6.08(c)(ii), the term "Parent Alternative Transaction" shall have the meaning set forth in the definition of Parent Alternative Transaction contained in Section 5.03(e) except that all references in such definition to "25% or more" shall be deemed to be references to "a majority").

For purposes of this Agreement, the "Parent Termination Fee" shall mean (i) with respect to Sections 6.08(c)(i) and 6.08(c)(iii), $1,000,000,000, and (ii) with respect to Section 6.08(c)(ii), $500,000,000. Any Parent Termination Fee due under this Section 6.08(c) shall be paid by wire transfer of same day funds to an account designated by the Company (x) in the case of a payment as a result of Section 6.08(c)(i) or 6.08(c)(ii), on the Business Day immediately following the date of termination of this Agreement and (y) in the case of a payment as a result of Section 6.08(c)(iii), upon the occurrence of an event set forth in Section 6.08(c)(iii)(C). Any Parent Termination Fee, if payable, shall be inclusive of any applicable value added Tax.

(d) Parent and the Company acknowledge that the agreements contained in this Section 6.08 are an integral part of the transactions contemplated by this Agreement and that, without these agreements, neither Parent nor the Company would have entered into this Agreement; accordingly, if the Company fails promptly to pay the Company Termination Fee, if any, or Parent fails to promptly pay the Parent Termination Fee, if any, and, in order to obtain such payment, the person owed such payment commences an Action that results in a Judgment against the other party for the amounts set forth in Section 6.08(b) or 6.08(c), as applicable, the person owing such payment shall pay to the other party interest on the amounts set forth in Section 6.08(b) or 6.08(c), as applicable, at a rate per annum equal to three-month LIBOR (as reported in The Wall Street Journal (Northeast edition) or, if not reported therein, in another authoritative source selected by Parent) on the date such payment was required to be made (or if no quotation for three-month LIBOR is available for such date, on the next preceding date for which such a quotation is available) plus 1.5%. In no event shall either party be obligated to pay

more than one termination fee pursuant to this Section 6.08; provided, however, that to the extent (i) Parent or the Company has terminated this Agreement pursuant to Section 8.01(b)(ii) at any time at which the Company would have been permitted to terminate this Agreement pursuant to Section 8.01(e), (ii) Parent has paid to the Company the Parent Termination Fee pursuant to Section 6.08(c)(ii) and (iii) Parent subsequently is obligated to pay to the Company the Parent Termination Fee pursuant to Section 6.08(c)(iii), Parent shall pay such subsequent Parent Termination Fee to the Company, less any amounts previously paid to the Company pursuant to Section 6.08(c)(ii).

SECTION 6.09. Public Announcements. Other than with respect to any Parent Adverse Recommendation Change or any Company Adverse Recommendation Change made in accordance with this Agreement, the Parent Entities and Sub, on the one hand, and the Company, on the other hand, shall consult with each other before issuing, and provide each other the opportunity to review and comment upon, any material press release or other material public statements with respect to this Agreement, the Merger and the other Transactions and shall not (and shall not cause or permit their respective Representatives to) issue any such material press release or make any such material public statement prior to such consultation, except as may be required by applicable Law, court process or by obligations pursuant to any listing agreement with, or rules of, any securities exchange or listing authority or as would not be reasonably practicable as a result of requirements of applicable Law. The Company and Parent agree that the initial press releases to be issued with respect to the Transactions will be in the form heretofore agreed to by the parties. Notwithstanding the foregoing sentences of this Section 6.09, Parent and the Company may make any oral or written public announcements, releases or statements without complying with the foregoing requirements if the substance of such announcements, releases or statements, was publicly disclosed and previously subject to the foregoing requirements.

SECTION 6.10. Stock Exchange Listing. Parent shall use its reasonable best efforts to cause, on or prior to the Closing Date (a) the Parent ADSs to be issued as Merger Consideration to be approved for listing on the NYSE, subject to official notice of issuance and (b) the Parent Ordinary Shares underlying the Parent ADSs constituting the Merger Consideration to be approved for admission to the premium listing segment of the Official List of the UKLA in accordance with the Listing Rules and to trading on the main market for listed securities of the LSE in accordance with the Admission and Disclosure Standards of the LSE. The Company shall use its reasonable best efforts to cooperate with Parent in connection with the foregoing, including by providing information reasonably requested by Parent in connection therewith.

SECTION 6.11. Stock Exchange Delisting and Deregistration. Prior to the Effective Time, the Company shall cooperate with Parent and use its reasonable best efforts to take, or cause to be taken, all actions, and do or cause to be done all things, necessary, proper or advisable on its part under applicable Laws and the rules and requirements of the NYSE to cause the delisting of the Company Common Stock from the NYSE as promptly as practicable after the Effective Time, and in any event no more than two Business Days after the Closing Date, and the deregistration of the Company Common Stock under the Exchange Act as promptly as practicable after such delisting; provided that the Company shall not cause the Company Common Stock to be delisted from the NYSE prior to the Effective Time. If the Surviving

Corporation is required to file any quarterly or annual report by a filing deadline that is imposed by the Exchange Act and which falls on a date within the ten days following the Closing Date, the Company shall make available to Parent, at least five Business Days prior to the Closing Date, a substantially final draft of any such annual or quarterly report reasonably likely to be required to be filed during such period.

SECTION 6.12. Transaction Litigation. In the event that any Action relating to the Transactions is brought against the Company or any of its directors or officers, the Company will promptly notify Parent of such Action and shall keep Parent informed on a reasonably current basis with respect to the status thereof. Subject to applicable Law, the Company shall give Parent the opportunity, at Parent's cost and expense, to participate in the defense or settlement of any such Action, and no such settlement shall be agreed to without the prior written consent of Parent (which consent shall not be unreasonably withheld, conditioned or delayed). In the event that any Action relating to the Transactions is brought against Parent or any of its directors or officers, Parent will promptly notify the Company of such Action and shall keep the Company informed on a reasonably current basis with respect to the status thereof. Subject to applicable Law, Parent shall give the Company the opportunity, at the Company's cost and expense, to participate in the defense or settlement of any such Action, and no such settlement shall be agreed to without the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed).

SECTION 6.13. Section 16 Matters. Prior to the Effective Time, the Company shall take all such steps as may be required and permitted to cause any dispositions of Company Common Stock (including derivative securities with respect thereto) by each director or officer of the Company to be exempt under Rule 16b-3 of the Exchange Act.

SECTION 6.14. Company's Auditors. From the date of this Agreement until the Effective Time, the Company shall use its reasonable best efforts to cause the Company's auditors to complete their audit for the year ending December 31, 2016 in a timely manner and, at the reasonable request of Parent, to perform a review of the consolidated interim financial statements of the Company for any period beginning thereafter.

SECTION 6.15. Integration Planning. From the date of this Agreement until the Effective Time, Parent and the Company shall establish a mechanism, subject to applicable Law, reasonably acceptable to both parties by which the parties will confer on a regular and continued basis regarding the general status of the ongoing operations and administration of the Company and its subsidiaries (including with respect to the ongoing debt and equity capitalization of the Company and the Company Subsidiaries) and integration planning matters and communicate and consult with specific persons to be identified by each party with respect to the foregoing.

SECTION 6.16. Company Capitalization. The Company shall make available to Parent, at least three Business Days prior to the anticipated Closing Date, an updated list of the information set forth in the first two sentences of Section 3.03(a) as of the most recent practicable date prior to the Closing Date.

SECTION 6.17. Governance Matters. Parent shall take all actions necessary to cause three directors other than the Investor Directors (as defined in the Governance Agreement)

serving on the Company Board immediately prior to the Closing to be elected or appointed as members of the Parent Board as of the Effective Time, with such directors to be selected by Parent prior to the Closing and after consultation with the Transaction Committee.

ARTICLE VII

Conditions Precedent

SECTION 7.01. Conditions to Each Party's Obligation to Consummate the Merger. The respective obligation of each party to consummate the Merger is subject to the satisfaction or, to the extent legally permissible (and except with respect to the condition set forth in Section 7.01(a)(i), which shall not be waivable), waiver on or prior to the Closing Date of the following conditions:

(a) Required Company Shareholder Approvals. Each of the (i) Unaffiliated Shareholder Approval and (ii) Company Shareholder Approval shall have been obtained.

(b) Parent Shareholder Approval. The Parent Shareholder Approval shall have been obtained.

(c) U.S. Listing. The Parent ADSs issuable as Merger Consideration shall have been approved for listing on the NYSE, subject to official notice of issuance.

(d) UK Listing. The UKLA and the LSE shall have acknowledged to Parent or its agent (and such acknowledgment shall not have been withdrawn) that the applications for admission of the Parent Ordinary Shares underlying the Parent ADSs constituting the Merger Consideration to the premium listing segment of the Official List of the UKLA and to trading on main market for listed securities of the LSE, respectively, have been approved such that such Parent Ordinary Shares shall have been admitted to the premium listing segment of the Official List of the UKLA and trading on the main market for listed securities of the LSE, subject only to the issue of such Parent Ordinary Shares upon completion of the Merger.

(e) Governmental Consents. (i) Any waiting period (and any extension thereof) applicable to the Transactions under the HSR Act shall have been terminated or shall have expired and (ii) each of the Consents set forth on Section 7.01(e)(ii) of the Parent Disclosure Letter shall have been obtained from the applicable Governmental Entity (whether by lapse of time or express confirmation of the relevant Governmental Entity) and shall be in full force and effect at the Closing.

(f) No Restraints. No temporary restraining order, preliminary or permanent injunction or other Judgment or Law entered, enacted, promulgated, enforced or issued by any court or other Governmental Entity of competent jurisdiction (collectively, "Restraints") shall be in effect preventing, making illegal or prohibiting the consummation of the Merger or the issuance of the Parent Ordinary Shares underlying the Parent ADSs as Merger Consideration.

(g) Forms F-4 and F-6. The Form F-4 and the Form F-6 shall have each been declared effective under the Securities Act and shall not be the subject of any stop order

suspending the effectiveness of such registration statement or proceedings seeking such a stop order.

(h) Parent Prospectus and Parent Circular. The Parent Prospectus and the Parent Circular shall have each been filed with and approved by the UKLA, and the Parent Prospectus shall have been made available to the public in accordance with the Prospectus Rules and the Parent Circular shall have been sent to the holders of Parent Ordinary Shares in accordance with the Listing Rules.

SECTION 7.02. Conditions to Obligations of Parent and Sub. The obligations of Parent and Sub to consummate the Merger are further subject to the satisfaction or, to the extent legally permissible, waiver on or prior to the Closing Date of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Company (i) in Section 3.01 (Organization, Standing and Power), Section 3.03 (Capital Structure), Section 3.04 (Authority; Execution and Delivery; Enforceability), Section 3.16 (Brokers; Schedules of Fees or Expenses) and Section 3.17 (Opinions of Financial Advisors) shall be true and correct in all material respects at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing Date (except to the extent expressly made as of an earlier date, in which case as of such earlier date), (ii) in Section 3.08(b) (Absence of Certain Changes or Events) shall be true and correct in all respects as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing Date and (iii) in this Agreement (other than the foregoing sections, subsections and sentences) shall be true and correct (ignoring for such purposes any materiality or "Material Adverse Effect" qualifiers set forth therein) at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing Date (except to the extent expressly made as of an earlier date, in which case as of such earlier date), other than for such failures in this clause (iii) to be true and correct (ignoring for such purposes any materiality or "Material Adverse Effect" qualifiers set forth therein) that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect (it being agreed that with respect to any representation or warranty with respect to which effects resulting from or arising in connection with the matters set forth in clause (d) of the definition of the term "Material Adverse Effect" are not excluded for purposes of qualifying such representation or warranty in determining whether a Company Material Adverse Effect has occurred or would reasonably be expected to occur, such effects will similarly not be excluded for purposes of this Section 7.02(a)). Parent shall have received a certificate signed on behalf of the Company by the chief executive officer or the chief financial officer of the Company to such effect.

(b) Performance of Obligations of the Company. The Company shall have performed in all material respects all obligations required to be performed by it under this Agreement that are required to be performed on or prior to the Closing Date, and Parent shall have received a certificate signed on behalf of the Company by the chief executive officer or the chief financial officer of the Company to such effect.

(c) No Antitrust Restrictions. No Restraint issued or promulgated by a Governmental Entity under any Antitrust Laws will be in effect, in each case as a result of the Merger, that results, directly or indirectly, in (i) any prohibition or limitation on the ownership or

operation by the Surviving Corporation, Parent or any of their respective subsidiaries of any portion of the business, properties or assets of the Surviving Corporation, Parent or any of their respective subsidiaries, (ii) the Surviving Corporation, Parent or any of their respective subsidiaries being compelled to dispose of or hold separate any portion of the business, properties or assets of the Surviving Corporation, Parent or any of their respective subsidiaries, (iii) any prohibition or limitation on the ability of Parent to acquire or hold, or exercise full right of ownership of, any shares of the capital stock of the Surviving Corporation or its subsidiaries, including the right to vote such shares or (iv) any prohibition or limitation on Parent effectively controlling the business or operations of the Surviving Corporation and its subsidiaries (collectively, an "Antitrust Restriction").

SECTION 7.03. Conditions to Obligation of the Company. The obligation of the Company to consummate the Merger is further subject to the satisfaction or, to the extent legally permissible, waiver on or prior to the Closing Date of the following conditions:

(a) Representations and Warranties. The representations and warranties of Parent, BATUS and Sub (i) in Section 4.01(a) (Organization, Standing and Power), Section 4.03 (Capital Structure) and Section 4.04 (Authority; Execution and Delivery; Enforceability) shall be true and correct in all material respects at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing Date (except to the extent expressly made as of an earlier date, in which case as of such earlier date), (ii) in Section 4.08(b) (Absence of Certain Changes or Events) shall be true and correct in all respects as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing Date and (iii) in this Agreement (other than the foregoing sections, subsections and sentences) shall be true and correct (ignoring for such purposes any materiality or "Material Adverse Effect" qualifiers set forth therein) at and as of the date of this Agreement and at and as of the Closing Date as if made at and as of the Closing Date (except to the extent expressly made as of an earlier date, in which case as of such earlier date), other than for such failures in this clause (iii) to be true and correct (ignoring for such purposes any materiality or "Material Adverse Effect" qualifiers set forth therein) that, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect (it being agreed that with respect to any representation or warranty with respect to which effects resulting from or arising in connection with the matters set forth in clause (d) of the definition of the term "Material Adverse Effect" are not excluded for purposes of qualifying such representation or warranty in determining whether a Parent Material Adverse Effect has occurred or would reasonably be expected to occur, such effects will similarly not be excluded for purposes of this Section 7.03(a)). The Company shall have received a certificate signed on behalf of Parent by the chief executive officer or the finance director of Parent to such effect.

(b) Performance of Obligations of Parent and Sub. Parent and Sub shall have performed in all material respects all obligations required to be performed by them under this Agreement that are required to be performed on or prior to the Closing Date, and the Company shall have received a certificate signed on behalf of Parent by the chief executive officer or the finance director of Parent to such effect.

ARTICLE VIII

Termination, Amendment and Waiver

SECTION 8.01. Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or after receipt of the Required Company Shareholder Approvals or the Parent Shareholder Approval:

(a) by mutual written consent of Parent and the Company (in the case of the Company, acting through or on the recommendation of the Transaction Committee);

(b) by either Parent or the Company (in the case of the Company, acting through or on the recommendation of the Transaction Committee):

(i) if the Merger is not consummated on or before December 31, 2017 (the "End Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 8.01(b)(i) shall not be available to any party whose breach of a representation, warranty or covenant in this Agreement has been a principal cause of or resulted in the failure of the Transactions to be consummated on or before the End Date; provided, further, that in the event that all of the conditions set forth in Article VII have been satisfied but the End Date, by its terms, would occur before the expiration of the five Business Day period contemplated by Section 1.02, the End Date shall be extended by the number of days necessary to provide Parent with the full five Business Day period contemplated thereby;

(ii) if the condition set forth in Section 7.01(f) is not satisfied and the Restraint giving rise to such non-satisfaction shall have become final and nonappealable; provided that the terminating party shall have complied in all material respects with its obligations to use its reasonable best efforts pursuant to Section 6.03;

(iii) if either of the Required Company Shareholder Approvals shall not have been obtained at the Company Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof at which a proper vote on such matters was taken; or

(iv) if the Parent Shareholder Approval shall not have been obtained at the Parent Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof at which a proper vote on such matters was taken;

(c) by Parent, if the Company breaches or fails to perform any of its covenants or agreements contained in this Agreement, or if any of the representations or warranties of the Company contained herein fails to be true and correct, which breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 7.02(a) or 7.02(b) and (ii) is not reasonably capable of being cured by the Company by the End Date or has not been cured by the Company within 30 days after the giving of written notice to the Company of such breach (provided that Parent is not then in material breach of any covenant or agreement contained in this Agreement and no representation or

warranty of Parent contained herein then fails to be true and correct such that the conditions set forth in Section 7.03(a) or 7.03(b) could not then be satisfied);

(d) by Parent, in the event that a Company Adverse Recommendation Change has occurred; provided, however, that Parent will not have the right to terminate this Agreement pursuant to this Section 8.01(d) if both of the Required Company Shareholder Approvals shall have been obtained;

(e) by the Company, if Parent or Sub breaches or fails to perform any of its covenants or agreements contained in this Agreement, or if any of the representations or warranties of Parent contained herein fails to be true and correct, which breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 7.03(a) or Section 7.03(b) and (ii) is not reasonably capable of being cured by Parent or Sub by the End Date or has not been cured by Parent or Sub within 30 days after the giving of written notice to Parent of such breach (provided that the Company is not then in material breach of any covenant or agreement contained in this Agreement and no representation or warranty of the Company contained herein then fails to be true and correct such that the conditions set forth in Section 7.02(a) or 7.02(b) could not then be satisfied); or

(f) by the Company, in the event that a Parent Adverse Recommendation Change has occurred; provided, however, that the Company will not have the right to terminate this Agreement pursuant to this Section 8.01(f) if the Parent Shareholder Approval shall have been obtained.

The party desiring to terminate this Agreement pursuant to clauses (b), (c), (d), (e) or (f) of this Section 8.01 shall give written notice of such termination to the other parties in accordance with Section 9.02, specifying the provision of this Agreement pursuant to which such termination is effected.

SECTION 8.02. Effect of Termination. In the event of termination of this Agreement by either the Company or Parent as provided in Section 8.01, this Agreement shall forthwith become void and have no effect, without any liability or obligation on the part of Parent, BATUS, Sub or the Company, other than the last sentence of Section 6.02, the last sentence of Section 6.04(e), Section 6.04(f), Section 6.08, this Section 8.02 and Article IX, which provisions shall survive such termination. Nothing in this Section 8.02 shall be deemed to release any party from any liability for any willful and material breach by such party of the terms and provisions of this Agreement; provided that if either party receives any payments for damages from another party in respect of any such breach of this Agreement and also receives a Company Termination Fee or Parent Termination Fee, as applicable, the amount of such payments for damages made by the applicable party in respect of any such breaches shall be reduced by the amount of such Company Termination Fee or Parent Termination Fee, as applicable. The Company on behalf of the holders of Company Common Stock and Company Stock Awards has the right to seek damages (including claims for damages based on loss of the economic benefits of the Transactions to the holders of Company Shares and Company Stock Awards) in the event of Parent's, BATUS's or Sub's failure to consummate the Merger in breach of this Agreement (whether or not this Agreement has been terminated), which right is hereby expressly acknowledged and agreed by Parent, BATUS and Sub. The rights of third-party

beneficiaries referenced in the preceding sentence may be exercised only by the Company (on behalf of the holders of Company Shares and Company Stock Awards as their agent) through action expressly approved by the Transaction Committee, and no shareholder of the Company or holder of Company Stock Awards whether purporting to act in its capacity as a stockholder or holder of Company Stock Awards purporting to assert any right (derivatively or otherwise) on behalf of the Company, shall have any right or ability to exercise or cause the exercise of any such right.

SECTION 8.03. Amendment. Prior to the Effective Time, this Agreement may be amended by the parties (in the case of the Company, acting through or on the recommendation of the Transaction Committee) at any time before or after receipt of the Required Company Shareholder Approvals or the Parent Shareholder Approval; provided, however, that (a) after receipt of the Required Company Shareholder Approvals, there shall be made no amendment that by applicable Law requires further approval by the holders of Company Capital Stock without the further approval of such shareholders and (b) after receipt of the Parent Shareholder Approval, there shall be made no amendment that by applicable Law requires further approval by the holders of Parent Ordinary Shares without the further approval of such shareholders. Subject to Section 1.05, this Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties.

SECTION 8.04. Extension; Waiver. At any time prior to the Effective Time, the parties (in the case of the Company, acting through or on the recommendation of the Transaction Committee) may (a) extend the time for the performance of any of the obligations or other acts of the other parties, (b) waive any inaccuracies in the representations and warranties contained in this Agreement or in any certificate or instrument delivered pursuant to this Agreement, (c) waive compliance with any of the covenants or agreements contained in this Agreement or (d) waive the satisfaction of any conditions contained in this Agreement (except with respect to the condition set forth in Section 7.01(a)(i), which shall not be waivable); provided, however, that (i) after receipt of the Required Company Shareholder Approvals, there shall be no waiver that by applicable Law requires further approval by the holders of Company Capital Stock without the further approval of such shareholders and (ii) after receipt of the Parent Shareholder Approval, there shall be no waiver that by applicable Law requires further approval by the holders of Parent Ordinary Shares without the further approval of such shareholders. Termination of this Agreement pursuant to Section 8.01 shall not require the approval of the holders of Parent Ordinary Shares or the holders of Company Capital Stock. Any agreement on the part of a party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights, nor shall any single or partial exercise by any party to this Agreement of any of its rights under this Agreement preclude any other or further exercise of such rights or any other rights under this Agreement.

SECTION 8.05. Procedure for Termination, Amendment, Extension or Waiver. A termination of this Agreement pursuant to Section 8.01, an amendment of this Agreement pursuant to Section 8.03 or an extension or waiver pursuant to Section 8.04 shall, in order to be effective, require, in the case of Parent, BATUS, Sub or the Company, action by its board of directors (in the case of the Company, acting through or on the recommendation of the

Transaction Committee) or the duly authorized designee of its board of directors (in the case of the Company, such designee having been nominated at the request of the Transaction Committee).

ARTICLE IX

General Provisions

SECTION 9.01. Nonsurvival of Representations and Warranties. None of the representations and warranties in this Agreement or in any certificate or instrument delivered pursuant to this Agreement, including any rights arising out of any breach of such representations or warranties, shall survive the Effective Time. This Section 9.01 shall not limit Section 8.02 or any covenant or agreement of the parties which by its terms contemplates performance after the Effective Time.

SECTION 9.02. Notices. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed given upon delivery to the parties at the following addresses or email addresses (or at such other address for a party as shall be specified by like notice):

(a) if to Parent, BATUS or Sub, to

Globe House, 4 Temple Place
London, WC2R 2PG

Attention: Assistant General Counsel, Corporate
Email: Robert_Casey@bat.com

and

Attention: Head of Legal—M&A
Email: Craig_Harris@bat.com

with a copy to (which will not constitute notice to Parent, BATUS or Sub):

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, NY 10019

Attention: Philip A. Gelston, Esq.
David J. Perkins, Esq.
Ting S. Chen, Esq.
Email: PGelston@cravath.com
DPerkins@cravath.com
TChen@cravath.com

(b) if to the Company, to

Reynolds American Inc.
401 North Main Street
Winston-Salem, NC 27101

Attention: Martin L. Holton III
Email: holtonm@rjrt.com

with a copy to (which will not constitute notice to the Company):

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153

Attention: Michael J. Aiello
Matthew J. Gilroy
Email: michael.aiello@weil.com
matthew.gilroy@weil.com

and

Jones Day
250 Vesey Street
New York, NY 10281

Attention: Randi C. Lesnick
Lizanne Thomas
Alain A. Dermarkar
Email: rclesnick@jonesday.com
lthomas@jonesday.com
adermarkar@jonesday.com

SECTION 9.03. Definitions. For purposes of this Agreement:

"Action" means any claim, suit, action, arbitration, inquiry, investigation or other proceeding of any nature (whether criminal, civil, legislative, administrative, regulatory, prosecutorial, arbitral or otherwise) by or before any Governmental Entity.

"ADS Ratio" means, as of the Effective Time, the number of Parent Ordinary Shares represented by one Parent ADS.

"affiliate" of any person means another person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person. Notwithstanding anything to the contrary herein, none of Parent or any Parent Subsidiary will be considered an affiliate of the Company or any Company Subsidiary, and neither the Company nor any Company Subsidiary will be considered an affiliate of Parent or any Parent Subsidiary.

"Business Day" means any day except Saturday, Sunday or any other day on which the North Carolina Department of the Secretary of State or commercial banks in either New York or London are authorized or required by applicable Law to be closed. Any event the scheduled occurrence of which would fall on a day that is not a Business Day shall be deferred until the next succeeding Business Day.

"Cash-Out RSU" means each Company RSU and each Company Performance Share, in each case, that was granted prior to the date hereof, but excluding any Retention RSUs.

"Clean Team Agreement" means the Clean Team Confidentiality Agreement, dated as of December 26, 2016, among Parent and the Company.

"Commonly Controlled Entity" means, with respect to a person, any other person or entity that, together with such first person, is treated as a single employer under Section 414(b), (c), (m) or (o) of the Code or any other applicable Law.

"Company Benefit Plans" means any Employee Benefit Plan that is sponsored, maintained or contributed to, or required to be sponsored, maintained or contributed to, by the Company, any Company Subsidiary or any other Commonly Controlled Entity with respect to the Company for the benefit of any Company Personnel.

"Company DSU" means any deferred stock unit that is fully vested and payable in shares of Company Common Stock or the value of which is determined with reference to the value of shares of Company Common Stock, whether granted by the Company under a Company Stock Plan or otherwise.

"Company Material Adverse Effect" means a Material Adverse Effect with respect to the Company.

"Company Performance Share" means any performance share award subject to performance-based vesting, payable in shares of Company Common Stock or the value of which is determined with reference to the value of shares of Company Common Stock, whether granted by the Company under a Company Stock Plan or otherwise.

"Company Personnel" means any current or former director, officer, employee, individual independent contractor or individual consultant of the Company or any Company Subsidiary.

"Company RSU" means any restricted stock unit award subject solely to time-based vesting and not performance-based vesting (other than performance-based vesting only for purposes of Code Section 162(m)), payable in shares of Company Common Stock or the value of which is determined with reference to the value of shares of Company Common Stock, whether granted by the Company under a Company Stock Plan or otherwise.

"Company Stock Awards" means the Company RSUs, Company DSUs and Company Performance Shares.

"Company Stock Plans" means the Reynolds American Inc. 2009 Omnibus Incentive Compensation Plan, the Reynolds American Inc. Amended and Restated 2009 Omnibus Incentive Compensation Plan and the Equity Incentive Award Plan for Directors of Reynolds American Inc. (Amended and Restated Effective December 5, 2013).

"Confidentiality Agreement" means the letter agreement, dated as of December 14, 2016, among Parent and the Company.

"Confidentiality/Antitrust Protocol" means the letter agreement, dated as of December 16, 2016, among Parent, the Company and PricewaterhouseCoopers LLP.

"Deposit Agreement" means the Amended and Restated Deposit Agreement, dated as of December 1, 2008, by and among Parent, Citibank, N.A., as depositary, and all holders and beneficial owners of Parent ADSs and the related fee letter agreement with respect thereto, dated as of October 25, 2013, in each case, including any amendment, supplement or replacement thereof.

"Disclosure Guidance and Transparency Rules" means the disclosure guidance and transparency rules made by the FCA under Section 73A of the Financial Services and Markets Companies Act 2000, as amended.

"Employee Benefit Plans" means all (a) employee welfare plans within the meaning of Section 3(1) of ERISA (whether or not subject to ERISA), (b) pension plans within the meaning of Section 3(2) of ERISA (whether or not subject to ERISA), and (c) bonus, incentive, equity or equity related, deferred compensation, vacation, paid time off, stock purchase, stock option, employment, retention, termination, severance, or change of control plans, programs, policies, agreements or other arrangements, other than any such plan, program, policy, agreement or other arrangement that is a "multiemployer plan" (within the meaning of Section 3(37) of ERISA, whether or not subject to ERISA (a "Multiemployer Plan")).

"Environmental Law" means any applicable Law, Judgment or Consent issued or promulgated by any Governmental Entity relating to pollution or the protection of the environment (including ambient air, surface water, groundwater or land), the presence, management, release or disposal of, or exposure to, toxic or hazardous substances or wastes, pollutants or contaminants, including the Toxic Substances Control Act.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Exchange Ratio" means 0.5260.

"Financing" means the financing required to consummate the Merger and the other Transactions and to pay related fees and expenses, including any financing pursuant to the New Term Loan Facility or any alternative or replacement financing in lieu thereof, including through one or more issuances of debt securities (other than any debt securities convertible into, exchangeable for or otherwise linked to, any equity security).

"FSMA" means the UK Financial Services and Markets Act 2000.

"Indebtedness" means, with respect to any person, without duplication, (a) all obligations of such person for borrowed money, or with respect to deposits or advances of any kind to such person, (b) all obligations of such person evidenced by bonds, debentures, notes or similar instruments, (c) all capitalized lease obligations of such person or obligations of such person to pay the deferred and unpaid purchase price of property and equipment, (d) all obligations of such person pursuant to securitization or factoring programs or arrangements, (e) all guarantees and arrangements having the economic effect of a guarantee of such person of any Indebtedness of any other person, (f) all obligations or undertakings of such person to maintain or cause to be maintained the financial position or covenants of others or to purchase the obligations or property of others, (g) letters of credit, bank guarantees and similar contractual obligations entered into by or on behalf of such person or (h) net cash payment obligations of such person under swaps, options, derivatives and other hedging agreements or arrangements that will be payable upon termination thereof (assuming they were terminated on the date of determination).

"Intellectual Property" means (a) trademarks (registered or unregistered), service marks, brand names, certification marks, trade dress, designs, assumed names, trade names, domain names and other indications of origin, the goodwill associated with the foregoing and registrations in any jurisdiction of, and applications in any jurisdiction to register, the foregoing, including any extension, modification or renewal of any such registration or application, (b) trade secrets and confidential information and rights in any jurisdiction to limit the use or disclosure thereof by any person, (c) works of authorship (whether or not copyrightable), registrations or applications for registration of copyrights in any jurisdiction, and any renewals or extensions thereof, and database rights, (d) any intellectual property or proprietary rights similar to any of the foregoing and (e) patents (including all reissues, divisions, continuations and extensions thereof), patent rights, processes, technology, inventions and registrations in any jurisdiction of, and applications in any jurisdiction to register, the foregoing, including any extension, modification or renewal of any such registration or application.

"Knowledge" of any person means, with respect to any matter in question, the actual knowledge of the individuals set forth in Section 9.03(a) of the Company Disclosure Letter or Section 9.03 of the Parent Disclosure Letter, as applicable, after having made reasonable inquiry of those persons primarily responsible for such matter, but without further investigation by such individual.

"Listing Rules" means the listing rules issued by the FCA pursuant to Part 6 of the FSMA.

"Market Abuse Regulation" means the Market Abuse Regulation (2014/596/EU) and its implementing and delegated regulations.

"Material Adverse Effect" with respect to any person means any change, effect, event, circumstance, development or occurrence that, individually or in the aggregate with all other changes, effects, events, circumstances, developments or occurrences, has had or would reasonably be expected to have a material adverse effect on the business, results of operations or financial condition of such person and its subsidiaries, taken as a whole; except that in no event will any effect resulting or arising from or relating to any of the following matters be considered,

either alone or in combination, to constitute or contribute to a Material Adverse Effect: (a) changes in economic or political conditions or the financing, banking, currency or capital markets in general, including with respect to interest rates or currency exchange rates, (b) changes in Laws or changes in accounting requirements or principles (or interpretation or enforcement thereof), (c) changes affecting industries, markets or geographical areas in which such person or its subsidiaries conduct their respective businesses, (d) the negotiation, announcement, execution, pendency or performance of this Agreement or the consummation of the Transactions, (e) a decline in the market price, credit rating or trading volume of such person's securities, except that this clause (e) will not prevent or otherwise affect a determination that any change, effect, event, circumstance, development or occurrence underlying such decline has resulted in or contributed to a Material Adverse Effect, (f) any natural disaster or any conditions resulting from natural disasters, (g) acts of terrorism, sabotage, military action, armed hostilities or war (whether or not declared) or any outbreak, escalation or worsening thereof, (h) any actions required under this Agreement to obtain any approval or authorization under Antitrust Laws for the consummation of the Transactions, except as described in Section 6.03(c), (i) the failure, in and of itself, of such person to meet any internal or published projections, forecasts, estimates, guidance or predictions in respect of revenues, earnings, profits or other financial or operating metrics before, on or after the date of this Agreement (it being understood that the underlying facts giving rise or contributing to such change may be taken into account into determining whether there has been, or would reasonably be expected to be, a "Material Adverse Effect"), (j) any Tobacco Litigation (including any settlement or Judgment related thereto) commenced (i) prior to the date of this Agreement or (ii) on or after the date of this Agreement other than (solely with respect to this subclause (ii)) any Tobacco Litigation brought by or on behalf of any Governmental Entity to the extent such Tobacco Litigation is not a part of or an extension or expansion of any Tobacco Litigation commenced prior to the date of this Agreement or (k) any Menthol Regulatory Action; provided, however, that changes, effects, events or occurrences referred to in clauses (a), (b), (c), (f) or (g) will be considered in determining whether there has been, or would reasonably expected to be, a "Material Adverse Effect" to the extent that such changes are materially disproportionately adverse to the business, results of operations or financial condition of the such person and its subsidiaries, taken as a whole, as compared to other companies in the industry in which the such person and its subsidiaries primarily operate (in which case only the incremental materially disproportionate impact or impacts may be taken into account in determining whether there has been, or would reasonably be expected to be, a "Material Adverse Effect").

"Menthol Regulatory Action" means any Law, Judgment or Action enacted, promulgated, proposed or threatened by the U.S. Food and Drug Administration or any other Governmental Entity that could have the effect of banning or materially restricting the use of menthol in any product sold or distributed by the Company or Parent or any of their respective subsidiaries.

"New Term Loan Facility" means the Term Loan Facilities Agreement, dated as of January 16, 2017, among Parent, as guarantor, B.A.T Capital Corporation and B.A.T. International Finance p.l.c., as borrowers, HSBC Bank plc, as agent, HSBC Bank USA, National Association, as U.S. agent, and the financial institutions party thereto as mandated lead arrangers and banks.

"Parent Material Adverse Effect" means a Material Adverse Effect with respect to Parent.

"Parent Share Awards" means any options, conditional awards or other rights over Parent Ordinary Shares granted by Parent under the Parent Share Plans or otherwise which Parent may satisfy by the allotment of new Parent Ordinary Shares.

"person" means any individual, firm, corporation, partnership, company, limited liability company, trust, joint venture, association, Governmental Entity, unincorporated organization or other entity.

"Prospectus Rules" means the rules made for purposes of Part 6 of the FSMA in relation to offers of securities to the public and admission of securities to trading on a regulated market.

"Retention RSU" means the Company RSUs granted pursuant to the award agreements listed in Section 9.03(b) of the Company Disclosure Letter.

"Rollover RSU" means any Company RSU or Company Performance Share that, in either case, is not a Cash-Out RSU.

"RSU Exchange Ratio" means the sum of (i) the quotient of (A) the Exchange Ratio over the (B) the ADS Ratio plus (ii) the quotient of (A) the Per Share Cash Consideration over (B) the closing price of one Parent ADS on the last trading date preceding the Closing Date as reported on the NYSE.

"subsidiary" of any person means another person, an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its board of directors or other governing body (or, if there are no such voting interests, more than 50% of the equity interests of which) is owned directly or indirectly by such first person. For the avoidance of doubt, neither the Company nor any Company Subsidiaries shall be deemed to be a subsidiary of Parent or any of the Parent Subsidiaries for any purposes under this Agreement.

"Tax Return" means all Tax returns, declarations, statements, reports, schedules, forms and information returns, in each case relating to Taxes and filed or required to be filed with a Governmental Entity, and any amendments thereof.

"Taxes" means all taxes, customs, tariffs, imposts, levies, duties, fees or other like assessments or charges of any kind (in each case, imposed by a Governmental Entity and in the nature of a tax), together with all interest, penalties and additions imposed with respect to such amounts.

"Tobacco Litigation" means the *United States v. Philip Morris, et al.*, No. 99-02496 (D.D.C.) and any other Actions or Judgments regarding any health or other impacts or alleged health or other impacts, including impacts cognizable under the Racketeer Influenced and Corrupt Organizations Act, from the development, manufacture, distribution, sale, advertising, marketing and/or use of any tobacco product

(including products that are derived from tobacco, such as products containing tobacco-derived nicotine), including for the avoidance of doubt any and all Actions or Judgments regarding the presence of or exposure to smoke from any tobacco product.

SECTION 9.04. Interpretation. When a reference is made in this Agreement to an Article, Section, subsection, Schedule or Exhibit, such reference shall be to an Article, Section, subsection, Schedule or Exhibit to this Agreement unless otherwise indicated. The table of contents, index of defined terms and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation". The words "hereof", "herein", "hereto" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The term "or" is not exclusive. The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if". The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms. Any agreement, instrument or Law defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or Law as from time to time amended, modified or supplemented (other than any amendment to the Filed Company SEC Documents after the date of this Agreement), unless otherwise specifically indicated. References to a person are also to its permitted successors and assigns. References to "dollars" or "$" are to U.S. dollars, unless otherwise specifically indicated. Each of the parties has participated in the drafting and negotiation of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement must be construed as if it is drafted by all of the parties, and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Agreement.

SECTION 9.05. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any applicable Law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the Transactions is not affected in any manner materially adverse to any party or such party waives its rights under this Section 9.05 with respect thereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the Transactions contemplated hereby are fulfilled to the extent possible.

SECTION 9.06. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties. This Agreement or any counterpart may be executed and delivered by facsimile copies or delivered by electronic communications by portable document format (.pdf), each of which will be deemed an original.

SECTION 9.07. Entire Agreement; No Third-Party Beneficiaries. This Agreement (including the Exhibits hereto), taken together with the Company Disclosure Letter, the Parent Disclosure Letter, the Clean Team Agreement, the Confidentiality Agreement and the

Confidentiality/Antitrust Protocol (but excluding, for the avoidance of doubt, the Governance Agreement), (a) constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the Transactions and (b) except for the provisions of Section 6.07 and the last two sentences of Section 8.02, are not intended to confer upon any person (including any shareholder of any party) other than the parties any rights or remedies.

SECTION 9.08. Governing Law; Consent to Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof, except to the extent the laws of North Carolina or England, or both, are mandatorily applicable to the Transactions. Each of the parties hereto irrevocably agrees that any action, suit or proceeding arising out of this Agreement or any Transaction and the rights and obligations arising hereunder, shall be brought and determined exclusively in the Delaware Court of Chancery, or, if the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any Federal court within the State of Delaware, or, if both the Delaware Court of Chancery and the Federal courts within the State of Delaware decline to accept jurisdiction over a particular matter, any other state court within the State of Delaware, and, in each case, any appellate court therefrom. In addition, each of the parties hereto (a) consents to submit itself to the exclusive personal jurisdiction of such court in the event any dispute arises out of this Agreement or any Transaction, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, (c) irrevocably and unconditionally waives (and agrees not to plead or claim) any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or any Transaction in any such court or that any such action, suit, or proceeding brought in such court has been brought in an inconvenient forum, (d) agrees that it will not bring any action, suit or proceeding arising out of this Agreement or any Transaction in any court other than any such court and (e) agrees that each of the other parties will have the right to bring any action, suit or proceeding for enforcement of a judgment entered by such court. Each of Parent, BATUS, Sub and the Company agrees that a final judgment in any action, suit or proceeding by any such court will be conclusive and may be enforced in other jurisdictions by suit on the Judgment or in any other manner provided by applicable Law.

SECTION 9.09. Assignment. Subject to Section 1.05 and Section 2.01(e), neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of Law or otherwise by any of the parties without the prior written consent of the other parties hereto; provided that Parent, BATUS and Sub may assign their rights and obligations pursuant to this Agreement to any direct or indirect wholly owned subsidiary of Parent (including, for the avoidance of doubt, any such subsidiary incorporated after the date of this Agreement) after providing written notice thereof to the Company at least one Business Day prior to such assignment and; provided that no such assignment will relieve Parent or Merger Sub of any of its obligations hereunder. Any purported assignment without such prior written consent shall be void. Subject to the preceding sentences, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

SECTION 9.10. Enforcement. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, and that monetary damages, even if available, would not be an adequate remedy therefor. It is accordingly agreed that, prior to the termination of this Agreement pursuant to Article VIII, the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement, without proof of actual damages (and each party hereby waives any requirement for the securing or posting of any bond in connection with such remedy), this being in addition to any other remedy to which they are entitled at law or in equity. The parties further agree not to assert that a remedy of specific performance is unenforceable, invalid, contrary to Law or inequitable for any reason, nor to assert that a remedy of monetary damages would provide an adequate remedy for any such breach.

SECTION 9.11. Waiver of Jury Trial. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION ARISING OUT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS. EACH PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 9.11.

IN WITNESS WHEREOF, Parent, BATUS, Sub and the Company have duly executed this Agreement, all as of the date first written above.

BRITISH AMERICAN TOBACCO P.L.C.

by /s/ Robert Casey
Name: Robert Casey
Title: Assistnat General Counsel - Corporate

BATUS HOLDINGS INC.

By: /s/ Brent Cotton
Name: Brent Cotton
Title: President

FLIGHT ACQUISITION CORPORATION

By: /s/ Brent Cotton
Name: Brent Cotton
Title: President

REYNOLDS AMERICAN INC.

By: /s/ Debra A. Crew
Name: Debra A. Crew
Title: President and Chief Executive Officer

DATED JANUARY 2017

B.A.T. INTERNATIONAL FINANCE P.L.C.

and

B.A.T CAPITAL CORPORATION
as Borrowers

BRITISH AMERICAN TOBACCO P.L.C.
as Guarantor

HSBC BANK PLC
as Agent

HSBC BANK USA, NATIONAL ASSOCIATION
as US Agent
and

CERTAIN BANKS AND FINANCIAL INSTITUTIONS
as Banks

US$25,000,000,000 TERM LOAN FACILITIES

Herbert Smith Freehills LLP

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THIS AGREEMENT is dated 2017
BETWEEN:

(1) **B.A.T. INTERNATIONAL FINANCE P.L.C.** (registered number 1060930) and **B.A.T CAPITAL CORPORATION** (registered number 0911777) as original borrowers (the **"Original Borrowers"**);

(2) **BRITISH AMERICAN TOBACCO P.L.C.** as guarantor (the **"Guarantor"**);

(3) **THE FINANCIAL INSTITUTIONS** listed in Part I (*Arrangers*) of Schedule 1 (*Original Parties*) as mandated lead arrangers (the **"Arrangers"**);

(4) **THE FINANCIAL INSTITUTIONS** listed in Part II (*Banks and Commitments*) of Schedule 1 (*Original Parties*) as banks (the **"Original Banks"**);

(5) **HSBC BANK PLC** as agent (in this capacity the **"Agent"**); and

(6) **HSBC BANK USA, NATIONAL ASSOCIATION** (in this capacity the "**US Agent**")

IT IS AGREED as follows:

1. **INTERPRETATION**

1.1 **Definitions**

In this Agreement:

"Acceptable Bank" means a bank or financial institution which has a rating for its long term unsecured and non credit-enhanced debt obligations of A- or higher by S&P or Fitch Rating Ltd or A3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency.

"Acquisition" means the proposed acquisition by a member of the Group of all the common shares in Reynolds American Inc. which are not already held by a member of the Group in accordance with the terms of the Merger Agreement.

"Additional Borrower" means any member of the Group which becomes a Borrower in accordance with Clause 26.6 (*Additional Borrowers*).

"Administrative Party" means the Agent or the US Agent.

"Advance" means a Facility A Advance, a Facility B Advance, a Facility C Advance or a Facility D Advance.

"Affiliate" means a Subsidiary or a holding company (as defined in Section 1159 of the Companies Act 2006) of a person and any other Subsidiary of that holding company. Notwithstanding the foregoing, in relation to The Royal Bank of Scotland plc, the term "Affiliate" shall not include (i) the UK government or any member or instrumentality thereof, including Her Majesty's Treasury and UK Financial Investments Limited (or any directors, officers, employees or entities thereof) or (ii) any persons or entities controlled by or under common control with the UK government or any member or instrumentality thereof (including Her Majesty's Treasury and UK Financial Investments Limited) and which are not part of The Royal Bank of Scotland Group plc and its subsidiaries or subsidiary undertakings.

"Agent's Spot Rate of Exchange" means the spot rate of exchange as determined by the Agent for the purchase of the relevant Optional Currency in the London foreign exchange market with US Dollars at the relevant time on a particular day.

"Anti-Bribery and Corruption Laws" means all applicable anti-bribery and corruption laws and regulations, including but not limited to the US Foreign and Corrupt Practices Act 1977 and the UK Bribery Act 2010.

"Anti-Money Laundering Laws" means all applicable anti-money laundering laws and regulations.

"Availability Period" means the period from and including the Signing Date to and including the earlier of the (i) the date falling one month after the Closing Date; and (ii) 31 March 2018.

"Available Commitment" means at any time, in relation to a Facility, a Bank's Commitment under that Facility less:

(a) the aggregate amount of the Original US Dollar Amount of its share of any outstanding Advances under that Facility; and

(b) in relation to any proposed Advance, the Original US Dollar Amount of its share in any other Advance that is due to be made under that Facility on or before the date of such Advance.

"Available Facility" means at any time, in relation to a Facility, the aggregate amount at that time of the Available Commitments of all the Banks under that Facility.

"Banks" means those financial institutions listed in Part II (*Banks and Commitments*) of Schedule 1 (*Original Parties*) and their respective successors and assigns which are for the time being participating in the Facilities and any bank or financial institution which has become a Bank in accordance with Clause 26.11 (*Increase*).

"Borrower" means, subject to Clauses 7.4 (*Mandatory Prepayment by Borrowers*) and 7.6 (*Changes to Borrowers*), the Original Borrowers and each Additional Borrower.

"Borrower Accession Agreement" means a letter substantially in the form of Part II of Schedule 4 (*Forms of Accession Documents*) with such amendments as the Agent may approve or reasonably require.

"Borrowed Moneys Indebtedness" means, in relation to any person, any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent, comprising or constituted by:

(a) any liability to repay the principal of or to pay interest on borrowed money or deposits; or

(b) any liability:

(i) under or pursuant to any letter of credit, acceptance credit facility or note purchase facility; or

(ii) in relation to any foreign currency transaction or any purchase price for property or services payment of which is deferred for a period in excess of 180 days after the later of taking possession or becoming the legal owner thereof or the service being rendered; or

(iii) with regard to any guarantee or indemnity in respect of repayment of obligations referred to in paragraphs (i) and (ii) above or of any other borrowed money.

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

(a) relates to an Original Bank and:

(i) where the Borrower is an Original Borrower, is filed with HM Revenue & Customs at least 30 working days prior to the date of the first interest payment after the Signing Date; or

(ii) where the Borrower is an Additional Borrower, is filed with HM Revenue & Customs at least 30 working days prior to the date of the first interest payment after the date on which that Borrower becomes an Additional Borrower; or

(b) relates to a Bank that is a New Bank or an Increase Bank and:

(i) where the Borrower is a Borrower as at the relevant Novation Date (or date on which the increase in Commitments described in the relevant

Increase Confirmation takes effect) is filed with HM Revenue & Customs at least 30 working days prior to the date of the first interest payment after that Novation Date (or date on which the increase in Commitments described in the relevant Increase Confirmation takes effect); or

(ii) where the Borrower is not a Borrower as at the relevant Novation Date (or date on which the increase in Commitments described in the relevant Increase Confirmation takes effect), is filed with HM Revenue & Customs at least 30 working days prior to the date of the first interest payment after the date on which that Borrower becomes an Additional Borrower.

"Borrowings" means (without double counting) any indebtedness in respect of the following:

(a) money borrowed or raised and debit balances at banks;

(b) any bond, note, loan stock, debenture or similar debt instrument;

(c) acceptance credit facilities;

(d) receivables sold or discounted (otherwise than on a non-recourse basis);

(e) finance leases and hire purchase contracts which are required to be capitalised under generally accepted accounting principles in the UK;

(f) any other transaction having the commercial effect of a borrowing or raising of money excluding trade credit in the ordinary course of business; and

(g) guarantees in respect of indebtedness of any person falling within any of paragraphs (a) to (f) (both inclusive) above,

provided that indebtedness owing by one member of the Group to another member of the Group shall not be taken into account as Borrowings.

"Business Day" means a day (other than a Saturday or Sunday):

(a) on which banks and the interbank and foreign exchange markets are open for business in London and, in the case of a day on which any payment is required to be made by an Obligor, in New York; and

(b) (in relation to a day on which a payment in US Dollars or an Optional Currency (other than euro) is required hereunder) on which banks and the interbank and foreign exchange markets are open for business in New York or in the principal financial centre of the country of such Optional Currency; or

(c) (in relation to a day on which a payment in euro is required hereunder) which is a Target Day.

"Closing Date" means the date of completion of the Acquisition in accordance with the terms of the Merger Agreement.

"Code" means the United States Internal Revenue Code of 1986, as amended.

"Commitment" means a Facility A Commitment, Facility B Commitment, Facility C Commitment or Facility D Commitment.

"Dangerous Substance" means any radioactive emissions and any natural or artificial substance (whether in solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any other substance) which, taking into account the concentrations and quantities present and the manner in which it is being used or handled, it is reasonably foreseeable will cause harm to man or any other living organism or damage to the Environment including any controlled, special, hazardous, toxic, radioactive or dangerous waste.

"Default" means an Event of Default or an event specified in Clause 18 (*Default*) which, with the giving of notice, determination of materiality or expiry of any grace period under this Agreement (or any combination of the foregoing), would constitute an Event of Default.

"Defaulting Bank" means any Bank:

(a) which has failed to make its participation in an Advance available or has notified the Agent that it will not make its participation in an Advance available by the Utilisation Date of that Advance in accordance with Clause 5.5 (*Payment of proceeds*);

(b) which has otherwise rescinded or repudiated a Finance Document; or

(c) with respect to which an Insolvency Event has occurred and is continuing,

unless, in the case of paragraph (a) above:

(i) its failure to pay is caused by:

(A) administrative or technical error; or

(B) a Disruption Event; and

payment is made within five Business Days of its due date; or

(ii) that Bank is disputing in good faith whether it is contractually obliged to make the payment in question.

"Defeased Borrowings" means any indebtedness (or obligations in respect thereof, such as future interest) in respect of capital market issues in existence on the Signing Date which has been fully covered by cash or cash equivalents as a means of achieving the economic effect of full repayment of that indebtedness.

"Disruption Event" means either or both of:

(a) a material disruption to those payment or communication systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with a Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or

(b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:

(i) from performing its payment obligations under the Finance Documents; or

(ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

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

"Employee Plan" means an employee pension benefit plan within the meaning of Section 3(2) of ERISA (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any US Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Environment" means the media of air, water and land (wherever occurring) and in relation to the media of air and water includes, without limitation, the air and water within buildings and the air and water within other natural or man-made structures above or below ground and any water contained in any underground strata.

"Environmental Approvals" means all authorisations of any kind required under Environmental Laws to which any member of the Group is subject at any time.

"Environmental Law" means all legislation, regulations or orders (insofar as such regulations or orders have the force of law) to the extent that it relates to the protection or impairment of the Environment or the control of Dangerous Substances (whether or not in force at the Signing Date) which are capable of enforcement in any applicable jurisdiction by legal process.

"ERISA" means the United States Employee Retirement Income Security Act of 1974 (or any successor legislation thereto) as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that for purposes of Title I and Title IV of ERISA and Section 412 of the Code would be deemed at any relevant time to be a single employer with any US Borrower, pursuant to Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA.

"ERISA Event" means:

(a) any reportable event, as defined in Section 4043 of ERISA, with respect to an Employee Plan, as to which PBGC has not by regulation waived the requirement of Section 4043(a) of ERISA that it be notified of such event;

(b) the filing under Section 4041 of ERISA of a notice of intent to terminate any Employee Plan or the termination of any Employee Plan under Section 4041 of ERISA, or the receipt of notice by any US Borrower or any ERISA Affiliate under section 4042 of ERISA from the PBGC for the termination of, or the appointment of a trustee to administer, any Employee Plan;

(c) any failure by any Employee Plan to satisfy the minimum funding requirements of Sections 412 and 430 of the Code or Section 302 of ERISA applicable to such Employee Plan, in each case whether or not waived;

(d) the incurrence by any US Borrower or any ERISA Affiliate of any liability with respect to the complete or partial withdrawal, within the meaning of Section 4203 or 4205 of ERISA, of any US Borrower or any ERISA Affiliate from a Employee Plan or Multiemployer Plan;

(e) the filing under Section 412 of the Code or Section 302 of ERISA of any request for a minimum funding variance with respect to any Employee Plan;

(f) any US Borrower or any ERISA Affiliate incurring any liability under Title IV of ERISA with respect to the termination of any Employee Plan (other than premiums due and not delinquent under Section 4007 of ERISA); and

(g) a determination that any Employee Plan is, or is expected to be, in “at risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code).

"EURIBOR" means in relation to any Advance or overdue amount denominated in euro:

(a) the applicable Screen Rate;

(b) if no Screen Rate is available for the Term of that Advance or overdue amount, the Interpolated Screen Rate for that Advance or overdue amount; or

(c) if:

(i) no Screen Rate is available for the Term of that Advance or overdue amount; and

(ii) it is not possible to calculate an Interpolated Screen Rate for that Advance or overdue amount,

the Reference Bank Rate,

as of, in the case of paragraphs (a) and (c) above, 11.00 a.m. (Brussels time) on the applicable Rate Fixing Day for euro and for a period equal in length to that Term and, if that rate is less than zero, EURIBOR shall be deemed to be zero.

"Event of Default" means an event specified as such in Clause 18 (*Default*).

"Extension Date" means:

(a) the first anniversary of the Start Date;

(b) the second anniversary of the Start Date;

(c) the First Facility A Extended Maturity Date; or

(d) the First Facility B Extended Maturity Date,

as applicable.

"Extension Notice" means a notice in substantially the form set out in Schedule 7 (*Extension Notice*).

"Facility" means Facility A, Facility B, Facility C or Facility D.

"Facility A" means the term loan facility described in Clause 2.1.1 (*The Facilities*).

"Facility A Advance" means an advance made or to be made by the Banks under Facility A.

"Facility A Commitment" means:

(a) in relation to an Original Bank, the amount in US Dollars set opposite its name in Part II (*Banks and Commitments*) of Schedule 1 (*Original Parties*) and the amount of any other Facility A Commitments transferred to it under this Agreement or assumed by it in accordance with Clause 26.11 (*Increase*); and

(b) in relation to any other Bank, the amount in US Dollars of any Facility A Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 26.11 (*Increase*),

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

"Facility A Final Maturity Date" means, subject to Clause 2.4.1 (*Facility A Extension Option*), the date falling 12 months after the Start Date.

"Facility A Total Commitments" means the aggregate of the Facility A Commitments from time to time, being US$15,000,000,000 as at the Signing Date.

"Facility B" means the term loan facility described in Clause 2.1.2 (*The Facilities*).

"Facility B Advance" means an advance made or to be made by the Banks under Facility B.

"Facility B Commitment" means in relation to a Bank:

(a) in relation to an Original Bank, the amount in US Dollars set opposite its name in Part II (*Banks and Commitments*) of Schedule 1 (*Original Parties*) and the amount of any other Facility B Commitments transferred to it under this Agreement or assumed by it in accordance with Clause 26.11 (*Increase*); and

(b) in relation to any other Bank, the amount in US Dollars of any Facility B Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 26.11 (*Increase*),

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

"Facility B Final Maturity Date" means, subject to Clause 2.4.2 (*Facility B Extension Option*), the date falling 24 months after the Start Date.

"Facility B Total Commitments" means the aggregate of the Facility B Commitments from time to time, being US$5,000,000,000 as at the Signing Date.

"Facility C" means the term loan facility described in Clause 2.1.3 (*The Facilities*).

"Facility C Advance" means an advance made or to be made by the Banks under Facility C.

"Facility C Commitment" means in relation to a Bank:

(a) in relation to an Original Bank, the amount in US Dollars set opposite its name in Part II (*Banks and Commitments*) of Schedule 1 (*Original Parties*) and the amount of any other Facility C Commitments transferred to it under this Agreement or assumed by it in accordance with Clause 26.11 (*Increase*); and

(b) in relation to any other Bank, the amount in US Dollars of any Facility C Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 26.11 (*Increase*),

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

"Facility C Final Maturity Date" means the date falling 36 months after the Start Date.

"Facility C Total Commitments" means the aggregate of the Facility C Commitments from time to time, being US$2,500,000,000 as at the Signing Date.

"Facility D" means the term loan facility described in Clause 2.1.4 (*The Facilities*).

"Facility D Advance" means an advance made or to be made by the Banks under Facility D.

"Facility D Commitment" means in relation to a Bank:

(a) in relation to an Original Bank, the amount in US Dollars set opposite its name in Part II (*Banks and Commitments*) of Schedule 1 (*Original Parties*) and the amount of any other Facility D Commitments transferred to it under this Agreement or assumed by it in accordance with Clause 26.11 (*Increase*); and

(b) in relation to any other Bank, the amount in US Dollars of any Facility D Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 26.11 (*Increase*),

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

"Facility D Final Maturity Date" means the date falling 60 months after the Signing Date.

"Facility D Total Commitments" means the aggregate of the Facility D Commitments from time to time, being US$2,500,000,000 as at the Signing Date.

"Facility Office" means the office(s) notified by a Bank to the Agent:

(a) on or before the date it becomes a Bank; or

(b) by not less than five Business Days' notice,

as the office(s) through which it will perform all or any of its obligations under this Agreement.

"FATCA" means:

(a) sections 1471 to 1474 of the Code or any associated regulations or other official guidance;

(b) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of paragraph (a) above; or

(c) any agreement pursuant to the implementation of paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

"FATCA Application Date" means:

(a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;

(b) in relation to a "withholdable payment" described in section 1473(1)(A)(ii) of the Code (which relates to "gross proceeds" from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or

(c) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the Signing Date.

"FATCA Deduction" means a deduction or withholding required by FATCA.

"Fee Letters" means each letter dated on or about the Signing Date between the Agent, the US Agent, the Parent and the Original Borrowers setting out the amount of various fees referred to in Clause 20 (*Fees*).

"Final Maturity Date" means:

(a) in relation to Facility A, the Facility A Final Maturity Date;

(b) in relation to Facility B, the Facility B Final Maturity Date;

(c) in relation to Facility C, the Facility C Final Maturity Date; and

(d) in relation to Facility D, the Facility D Final Maturity Date.

"Finance Document" means this Agreement, each Fee Letter, a Novation Certificate, a Borrower Accession Agreement, each novation agreement entered into pursuant to Clause 7.6.2 (*Changes to Borrowers*) or any other document designated as such by the Agent and the Parent.

"Finance Party" means a Bank or an Administrative Party.

"First Facility A Extended Maturity Date" has the meaning ascribed to it in Clause 2.4.1(A)(1) (*Facility A Extension Option*).

"First Facility B Extended Maturity Date" has the meaning ascribed to it in Clause 2.4.2(A)(1) (*Facility B Extension Option*).

"GAAP" means generally accepted accounting principles in the jurisdiction of incorporation of the Parent including IFRS.

"Group" means the Parent and its Subsidiaries.

"Holding Company" means, in relation to a person, an entity of which that person is a Subsidiary.

"IFRS" means international financial reporting standards within the meaning of the IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"Impaired Agent" means an Administrative Party at any time when:

(a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;

(b) that Administrative Party otherwise rescinds or repudiates a Finance Document;

(c) (if that Administrative Party is also a Bank) it is a Defaulting Bank under paragraph (a) or (b) of the definition of "Defaulting Bank"; or

(d) an Insolvency Event has occurred and is continuing with respect to that Administrative Party;

unless, in the case of paragraph (a) above:

(i) its failure to pay is caused by:

(A) an administrative or technical error; or

(B) a Disruption Event; and

payment is made within five Business Days of its due date; or

(ii) that Administrative Party is disputing in good faith whether it is contractually obliged to make the payment in question.

"Increase Bank" has the meaning given to that term in Clause 26.11 (*Increase*).

"Increase Confirmation" means a confirmation substantially in the form set out in Schedule 6 (*Form of Increase Confirmation*).

"Insolvency Event" means in relation to a Finance Party, that the Finance Party:

(a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);

(b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;

(c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;

(d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, all other than by way of an Undisclosed Administration, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;

(e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:

  (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or

  (ii) is not dismissed, discharged, stayed or restrained in each case within 21 days of the institution or presentation thereof;

(f) has exercised in respect of it one or more of the stabilisation powers pursuant to Part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to Part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to Part 3 of the Banking Act 2009;

(g) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

(h) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets, all other than by way of an Undisclosed Administration;

(i) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 21 days thereafter;

(j) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (i) (above); or

(k) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence, in any of the foregoing acts.

"Interest Cover Ratio" means the ratio calculated in accordance with Clause 17 (*Financial Covenant*).

"Interpolated Screen Rate" means, in relation to LIBOR or EURIBOR for any Advance or overdue amount, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

(a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Term of that Advance or overdue amount; and

(b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Term of that Advance or overdue amount,

as of:

(i) in the case of LIBOR, 11.00 a.m.(London time); and

(ii) in the case of EURIBOR, 11.00 a.m. (Brussels time),

in each case, on the Rate Fixing Day for the currency of that Advance or overdue amount.

"ITA" means the Income Tax Act 2007.

"LIBOR" means in relation to any Advance or overdue amount denominated in a currency other than euro:

(a) the applicable Screen Rate;

(b) if no Screen Rate is available for the Term of that Advance or overdue amount, the Interpolated Screen Rate for that Advance or overdue amount; or

(c) if:

(i) no Screen Rate is available for the currency of that Advance or overdue amount; or

(ii) no Screen Rate is available for the Term of that Advance or overdue amount and it is not possible to calculate an Interpolated Screen Rate for that Advance or overdue amount,

the Reference Bank Rate,

as of, in the case of paragraphs (a) and (c) above, 11 a.m. on the Rate Fixing Day for the currency of that Advance or overdue amount and for a period equal in length to that Term and, if that rate is less than zero, LIBOR shall be deemed to be zero.

"Majority Banks" means, at any time:

(a) if any Advances are outstanding, Banks with an aggregate Original US Dollar Amount of Advances and undrawn Commitments at that time of more than $66^{2}/_{3}$ per cent. of the aggregate Original US Dollar Amount of all Advances then outstanding and undrawn Commitments then in force; or

(b) if no Advances are outstanding, Banks whose Commitments then aggregate more than $66^{2}/_{3}$ per cent. of the Total Commitments (or if the Total Commitments have been reduced to zero, aggregated more than $66^{2}/_{3}$ per cent. of the Total Commitments immediately before the reduction).

"Margin" means the percentage figure calculated in accordance with Clause 8.2 (*Calculation of the Margin*).

"Margin Stock" means "margin stock" as defined in Regulation U and X issued by the Board of Governors of the Federal Reserve System of the United States.

"Merger Agreement" means the agreement and plan of merger dated on or about the Signing Date relating to the Acquisition and made between the Parent, BATUS Holdings Inc., Flight Acquisition Corporation and Reynolds American Inc..

"Moody's" means Moody's Investors Service Limited or any successor to its rating business.

"Multiemployer Plan" means a "multiemployer plan" (as defined in Section 3(37) of ERISA) that is subject to Title IV of ERISA contributed to for any employees of any US Borrower or any ERISA Affiliate.

"New Bank" has the meaning given to that term in Clause 26.2 (*Transfers by Banks*).

"Novation Certificate" has the meaning given to it in Clause 26.3.1(A) (*Procedure for novations*).

"Novation Date" means, in relation to an assignment, transfer or novation in accordance with Clause 26.2 (*Transfers by Banks*), the date on which such assignment, transfer or novation takes effect.

"Obligor" means each Borrower and the Guarantor.

"OFAC" means the Office of Foreign Assets Control of the US Department of the Treasury.

"Optional Currency" means in relation to any Advance or proposed Advance, Sterling and euro or any currency other than US Dollars approved by all the Banks and which is readily available and freely transferable in the London foreign exchange market in sufficient amounts to fund that Advance.

"Original US Dollar Amount" means:

(a) the principal amount of an Advance denominated in US Dollars; or

(b) the principal amount of an Advance denominated in any other currency, translated into US Dollars on the basis of the Agent's Spot Rate of Exchange on the date of receipt by the Agent of the Request for that Advance.

"Parent" means British American Tobacco p.l.c.

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

"Party" means a party to this Agreement.

"PBGC" means the US Pension Benefit Guaranty Corporation, or any entity succeeding to all or any of its functions under ERISA.

"Qualifying Bank" means a bank or financial institution which:

(a) is a bank as defined for the purposes of section 879 of the ITA which is making an advance under this Agreement and is within the charge to United Kingdom corporation tax as regards any interest received by it in respect of that advance, or would be within such charge as respects such payment apart from section 18A Corporation Tax Act 2009, which is beneficially entitled to that interest; or

(b) is resident (as such term is defined in the appropriate double taxation treaty) in a country with which the United Kingdom has an appropriate double taxation treaty under which that institution is entitled to exemption from United Kingdom tax on interest and is entitled to apply for, and has applied for and obtained, approval (and with an effective notice of direction to this effect provided by Her Majesty's Revenue & Customs to the relevant Borrower before the date of payment of the interest in question) under the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 to have interest under this Agreement paid to its Facility Office (being the Facility Office which is beneficially entitled to the interest paid to the relevant Bank under this Agreement) without withholding or deduction for or on account of United Kingdom taxation (and does not carry on business in the United Kingdom through a permanent establishment with which any loan or advance made under this Agreement in respect of which the interest is paid is effectively connected) and for this purpose **"double taxation treaty"** means any convention or agreement between the government of the United Kingdom and any other government for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains; or

c) (i) holds a passport under the HMRC DT Treaty Passport scheme and has complied with the obligations in Clause 10.5 (*Borrower DTTP Filing*); and

(ii) approval has been given (and with an effective notice of direction to this effect provided by Her Majesty's Revenue & Customs to the relevant Borrower before

the date of payment of the interest in question) under the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 to have interest under this Agreement paid to that Bank's Facility Office (being the Facility Office which is beneficially entitled to the interest paid to the relevant Bank under this Agreement) without withholding or deduction for or on account of United Kingdom taxation, provided that this limb (ii) shall only apply where the relevant Borrower has made a Borrower DTTP Filing.

"Rate Fixing Day" means:

(a) the first day of a Term for an Advance denominated in Sterling; or

(b) the second Business Day before the first day of a Term for an Advance denominated in any currency other than Sterling.

"Rating Agencies" means Moody's and S&P and **"Rating Agency"** shall mean any one of them.

"Reference Bank Rate" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks:

(a) in relation to LIBOR, as the rate at which the relevant Reference Bank could borrow funds in the London interbank market; or

(b) in relation to EURIBOR, as the rate at which the relevant Reference Bank could borrow funds in the European interbank market,

in the relevant currency and for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period.

"Reference Banks" means, subject to Clause 26.8 (*Reference Banks*), any Bank or an Affiliate of a Bank appointed as such by the Agent in consultation with the Parent.

"Register" has the meaning ascribed to it in Clause 26.9 (*Register*).

"Replacement Bank" has the meaning given to that term in Clause 26.13 (*Replacement of a Defaulting Bank*).

"Request" means a request made by a Borrower to utilise a Facility, substantially in the form of Schedule 3 (*Form of Request*).

"Requested Amount" means the amount requested in a Request.

"S&P" means Standard and Poor's Credit Market Services Europe Limited or any successor to its rating business.

"Screen Rate" means:

(a) in relation to LIBOR, the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant currency and period displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate); and

(b) in relation to EURIBOR, the euro interbank offered rate administered by the Banking Federation of the European Union (or any other person which takes over the administration of that rate) for the relevant period displayed on page EURIBOR01 of the Reuters screen (or any replacement Reuters page which displays that rate),

or, in each case, on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Parent.

"Security Interest" means any mortgage, hypothecation, charge, pledge or lien (unless arising by operation of law) or other security interest securing any obligation of any person.

"Selection Notice" means a notice substantially in the form set out in Schedule 8 (*Selection Notice*).

"Signing Date" means the date of this Agreement.

"Start Date" means the earlier of the (i) Closing Date; and (ii) the Business Day falling six months after the Signing Date.

"Subsidiary" means:

(a) a subsidiary within the meaning of Section 1159 of the Companies Act 2006; and

(b) unless the context otherwise requires, a subsidiary undertaking within the meaning of Section 1162(2) of the Companies Act 2006.

"TARGET2" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007 or any successor thereto.

"TARGET Day" means any day on which TARGET2 is open for the settlement of payments in euro.

"Target Group" means Reynolds American Inc. and its Subsidiaries.

"Term" means each period:

(a) selected by a Borrower in a Request or a Selection Notice by reference to which interest is calculated; or

(b) by reference to which interest on an overdue amount is calculated.

"Term End Date" means the last day of each Term of an Advance.

"Total Commitments" means the aggregate of the Facility A Total Commitments, the Facility B Total Commitments, the Facility C Total Commitments and the Facility D Total Commitments, being US$25,000,000,000 as at the Signing Date.

"UK" or **"United Kingdom"** means the United Kingdom of Great Britain and Northern Ireland.

"UK Resident Borrower" means a Borrower resident in the UK for the purposes of UK taxation.

"Undisclosed Administration" means in relation to a Bank the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Bank is subject to home jurisdiction supervision if applicable law requires that such appointment is not to be publicly disclosed.

"United States" means the United States of America.

"US Bankruptcy Law" means the United States Bankruptcy Code or any other United States Federal or State bankruptcy, insolvency or similar law.

"US Borrower" means each Borrower that is incorporated or organised under the laws of the United States or any State of the United States (including the District of Columbia).

"US Debtor" means a US Borrower in respect of which an Advance is outstanding under this Agreement.

"US Person" means a "United States person" within the meaning of the Code and a disregarded entity (for US federal income tax purposes) owned by any such person.

"Utilisation Date" means the date for the making of an Advance.

1.2 **Construction**

1.2.1 In this Agreement, unless the contrary intention appears, a reference to:

(A) **"assets"** includes properties, revenues and rights of every description;

(B) an **"authorisation"** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration and notarisation;

(C) a **"month"** is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that, if there is no numerically corresponding day in the month in which that period ends, that period shall end on the last Business Day in that calendar month;

(D) **"pro rata"** shall mean in proportion to;

(E) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental body, agency, department or regulatory, self-regulatory or other authority or organisation;

(F) **"tax"** shall mean any tax, levy, impost, duty or other charge or withholding (including backup withholding) of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

(G) the currency of a country is to the lawful currency of that country for the time being, **"€"** and **"euro"** is a reference to the single currency of the Participating Member States, **"£"** and **"Sterling"** is a reference to the lawful currency of the United Kingdom for the time being, **"US$"** and **"US Dollars"** is a reference to the lawful currency of the United States for the time being;

(H) a provision of a law is a reference to that provision as amended or re-enacted;

(I) a Clause or a Schedule is a reference to a clause of or a schedule to this Agreement;

(J) a person includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;

(K) a Finance Document or another document is a reference to that Finance Document or that other document as amended, novated or supplemented; and

(L) a time of day is a reference to London time.

1.2.2 Unless the contrary intention appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

1.2.3 The index to and the headings in this Agreement are for convenience only and are to be ignored in construing this Agreement.

1.2.4 The representation and warranty given in Clause 15.11 (*Sanctions and Anti-Bribery and Corruption*) and the undertaking given in Clause 16.12 (*Sanctions and Anti-Bribery and Corruption*) (each a "**Sanctions Provision**") shall only apply to a Restricted Lender to the extent that the relevant Sanctions Provision would not result in a violation of, conflict with or create a liability under: (i) EU Regulation (EC) 2271/96; (ii) §7 of the German Außenwirtschaftsverordnung (in connection with section 4 paragraph 1 no. 3 of the German Außenwirtschaftsgesetz); or (iii) any similar applicable anti-boycott statute, and in connection with any waiver, determination or direction relating to any part of any Sanctions Provision which does not apply to any Restricted Lender, the Commitment of that Restricted Lender will be excluded for the purpose of determining whether the consent of the requisite majority of Lenders has been obtained or whether the determination or

direction by the requisite majority of Lenders has been made (as applicable). For the purposes of this clause 1.2.4 a "**Restricted Lender**" means a Lender that has notified the Agent and the Parent that a Sanctions Provision may result in a violation of, a conflict with or liability under: (i) EU Regulation (EC) 2271/96; (ii) §7 of the German Außenwirtschaftsverordnung (in connection with section 4 paragraph 1 no. 3 of the German Außenwirtschaftsgesetz); or (iii) any similar applicable anti-boycott statute.

1.3 **Contracts (Rights of Third Parties) Act 1999**

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement. For the avoidance of doubt, this shall not prevent any person taking the benefit of this Agreement in accordance with the provisions of Clause 7.6 (*Changes to Borrowers*), Clause 19.7.2 (*Exoneration*), Clause 19.16 (*Resignation of an Administrative Party*), Clause 26.2 (*Transfers by Banks*) and Clause 26.6 (*Additional Borrowers*).

2. **THE FACILITIES**

2.1 **The Facilities**

The Banks make available to each Borrower:

2.1.1 a committed multi-currency term loan facility in an aggregate amount equal to the Total Facility A Commitments;

2.1.2 a committed multi-currency term loan facility in an aggregate amount equal to the Total Facility B Commitments;

2.1.3 a committed multi-currency term loan facility in an aggregate amount equal to the Total Facility C Commitments; and

2.1.4 a committed multi-currency term loan facility in an aggregate amount equal to the Total Facility D Commitments.

The Banks will, when requested by a Borrower, make cash advances in US Dollars or Optional Currencies to that Borrower under the relevant Facility, subject to Clause 2.4 (*Extension Option*) (in the case of Facility A and Facility B only) and the other terms of this Agreement.

2.2 **Overall limits under the Facilities**

2.2.1

(A) The aggregate Original US Dollar Amount of all outstanding Facility A Advances shall not at any time exceed the Facility A Total Commitments at that time;

(B) The aggregate Original US Dollar Amount of all outstanding Facility B Advances shall not at any time exceed the Facility B Total Commitments at that time;

(C) The aggregate Original US Dollar Amount of all outstanding Facility C Advances shall not at any time exceed the Facility C Total Commitments at that time; and

(D) The aggregate Original US Dollar Amount of all outstanding Facility D Advances shall not at any time exceed the Facility D Total Commitments at that time.

2.2.2 The aggregate Original US Dollar Amount of Advances made by a Bank under each Facility shall not at any time exceed its Commitment under that Facility at that time.

2.3 **Number of Requests and Advances**

2.3.1 No more than one Request may be delivered on any one day by any Borrower, but that Request may specify any number of Advances under any of the Facilities.

2.3.2 Unless the Agent agrees otherwise:

(A) no more than six Advances may be outstanding under a Facility at any time; and

(B) outstanding Advances at any time may not be denominated in more than three different currencies under each Facility.

2.4 **Extension Option**

2.4.1 **Facility A Extension Option**

(A) The Parent may request by providing a revocable Extension Notice to the Agent not less than fifteen Business Days prior to:

(1) the first anniversary of the Start Date, that Facility A be extended for a period of six months from the Facility A Final Maturity Date so that the Facility A Final Maturity Date be extended to the date falling 18 months after the Start Date (the "**First Facility A Extended Maturity Date**"); and

(2) the First Facility A Extended Maturity Date, that Facility A be extended for a period of six months from the First Facility A Extended Maturity Date so that the Facility A Final Maturity Date be extended to the date falling 24 months after the Start Date.

(B) The Agent shall promptly notify the Banks if it receives an Extension Notice from the Parent in accordance with Clause 2.4.1 above.

(C) The Borrowers shall pay to the US Agent (for the account of the Banks) an extension fee as detailed in Clause 20.4 (*Extension Fee*) within five Business Days of the applicable Extension Date.

(D) If the Parent elects to extend Facility A in accordance with this Clause 2.4.1 (*Facility A Extension Option*), Facility A will continue for the period of the extension and the Facility A Final Maturity Date will be construed accordingly in respect of all the Banks.

2.4.2 **Facility B Extension Option**

(A) The Parent may request by providing a revocable Extension Notice to the Agent not less than fifteen Business Days prior to:

(1) the second anniversary of the Start Date, that Facility B be extended for a period of six months from the Facility B Final Maturity Date so that the Facility B Final Maturity Date be extended to the date falling 30 months after the Start Date (the "**First Facility B Extended Maturity Date**"); and

(2) the First Facility B Extended Maturity Date, that Facility B be extended for a period of six months from the First Facility B Extended Maturity Date so that the Facility B Final Maturity Date be extended to the date falling 36 months after the Start Date.

(B) The Agent shall promptly notify the Banks if it receives an Extension Notice from the Parent in accordance with Clause 2.4.2 above.

(C) The Borrowers shall pay to the US Agent (for the account of the Banks) an extension fee as detailed in Clause 20.4 (*Extension Fee*) within five Business Days of the applicable Extension Date.

(D) If the Parent elects to extend Facility B in accordance with this Clause 2.4.2 (*Facility B Extension Option*), Facility B will continue for the period of the extension and the Facility B Final Maturity Date will be construed accordingly in respect of all the Banks.

2.5 **Nature of a Finance Party's rights and obligations**

2.5.1 The obligations of a Finance Party under the Finance Documents are several. Failure of a Finance Party to carry out those obligations does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

2.5.2 The rights of a Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with Clause 2.5.3 below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of an Advance or any other amount owed by an Obligor which relates to a Finance Party's participation in the Facilities or its role under a Finance Document (including any such amount payable to the US Agent on its behalf) is a debt owing to that Finance Party by that Obligor.

2.5.3 A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents**.**

2.6 **Parent as agent for Obligors**

Each Obligor irrevocably authorises and instructs the Parent to give and receive as agent on its behalf all notices (including Requests and Selection Notices) and sign all documents in connection with the Finance Documents on its behalf (including Novation Certificates and novation agreements under Clause 7.6.2 (*Changes to Borrowers*)) and take such other action as may be necessary or desirable under or in connection with the Finance Documents and confirms that it will be bound by any action taken by the Parent under or in connection with the Finance Documents.

2.7 **Actions of Parent as agent for Obligors**

The respective liabilities of each of the Obligors under the Finance Documents shall not be in any way affected by:

2.7.1 any irregularity (or purported irregularity) in any act done by or any failure (or purported failure) by the Parent;

2.7.2 the Parent acting (or purporting to act) in any respect outside any authority conferred upon it by any Obligor; or

2.7.3 the failure (or purported failure) by or inability (or purported inability) of the Parent to inform any Obligor of receipt by it of any notification under this Agreement.

3. **PURPOSE**

3.1 Each Advance under each Facility shall be applied in or towards (i) financing, directly or indirectly, the Acquisition and payment of related taxes, fees, costs and expenses; and (ii) re-financing the existing borrowings of the Target Group under the US$2,000,000,000 revolving credit facility dated 8 December 2014 entered into between, *inter alia*, Reynolds American Inc., certain of its subsidiaries and the lenders named therein.

3.2 Without affecting the obligations of any Borrower in any way, no Finance Party is bound to monitor or verify the application of the proceeds of any Advance.

4. CONDITIONS PRECEDENT

4.1 Documentary conditions precedent

4.1.1 The obligations of each Finance Party to any Borrower under this Agreement are subject to the conditions precedent that:

(A) the Borrowers have paid to such Finance Party such up-front fee as may be payable in connection with the entry into this Agreement in the amount and on the date agreed in the relevant Fee Letter; and

(B) the Agent has notified the Parent and the Banks that it has received all of the documents set out in Part I of Schedule 2 (*Conditions Precedent Documents*) in form and substance satisfactory to the Agent, other than paragraph 9 of Part I of Schedule 2 (*Conditions Precedent Documents*) in respect of which delivery of the relevant document shall satisfy the condition precedent. The Agent will promptly notify the Parent and the Banks upon such receipt.

4.2 Further conditions precedent

4.2.1 The obligations of each Bank to participate in an Advance (other than to an Advance to which Clause 4.3 (*Certain Funds Utilisations*) applies) are subject to the further conditions precedent that on the date of the Request for the Advance and on its Utilisation Date:

(A) the representations and warranties in Clause 15 (*Representations and Warranties*) deemed to be repeated on those dates pursuant to Clause 15.15.3 (*Times for making representations and warranties*) are correct and will be correct immediately after the disbursement of the Advance;

(B) no Default is outstanding or would result from the disbursement of the Advance; and

(C) the Advance would not cause Clause 2.2 (*Overall limits under the Facilities*) (as applicable to such Advance) to be contravened.

4.3 Certain Funds Utilisations

4.3.1 In this Clause 4.3:

"Certain Funds Utilisation" means any Advance during the Availability Period, where such Advance is to be made solely for any of the purposes set out in Clause 3 (*Purpose*).

"Major Default" means any event or circumstance constituting an Event of Default under any of Clause 18.2 (*Non-payment*), Clause 18.3 (*Breach of other obligations*) insofar as it relates to a breach of any Major Undertaking only, Clause 18.6 (*Insolvency*), Clause 18.7 (*Insolvency proceedings*), Clause 18.11 (*US Bankruptcy Law*), Clause 18.12 (*Unlawfulness*) and Clause 18.13 (*Guarantee*).

"Major Representation" means a representation or warranty under Clause 15.2 (*Status*), Clause 15.3 (*Powers and Authority*) and Clause 15.6 (*Authorisations*).

"Major Undertaking" means any of Clause 16.7 (*Negative pledge*) and Clause 16.8 (*Disposals*).

4.3.2 Subject to Clause 4.1 (*Documentary conditions precedent*), during the Availability Period, a Bank will only be obliged to participate in an Advance in relation to a Certain Funds Utilisation if, on the date of the Request and on the proposed Utilisation Date:

(A) no Major Default is continuing or would result from the proposed Certain Funds Utilisation; and

(B) all the Major Representations are true.

4.3.3 During the Availability Period (save in circumstances where, pursuant to Clause 4.3.2, a Bank is not obliged to participate in an Advance and subject to Clause 7.4 (*Mandatory Prepayment by Borrowers*), Clause 13.1 (*Illegality*) and the Borrowers' compliance with Clause 7.5 (*Mandatory Prepayment - Refinancing Proceeds*)), none of the Finance Parties shall be entitled to:

(A) cancel any of its Commitments, to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;

(B) rescind, terminate or cancel this Agreement or any of the Facilities or exercise any similar right or remedy or make or enforce any claim under the Finance Documents it may have to the extent to do so would prevent or limit the making of a Certain Funds Utilisation;

(C) refuse to participate in the making of a Certain Funds Utilisation;

(D) exercise any right of set-off or counterclaim in respect of an Advance to the extent to do so would prevent or limit the making of a Certain Funds Utilisation; or

(E) cancel, accelerate or cause repayment or prepayment of any amounts owing under this Agreement or under any other Finance Document to the extent to do so would prevent or limit the making of a Certain Funds Utilisation,

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

5. ADVANCES

5.1 Receipt of Requests

5.1.1 A Borrower may borrow Advances if the Agent receives, not later than 3 p.m. on the third Business Day before the proposed Utilisation Date, or, in the case of an Advance in Sterling, not later than 9.30 a.m. on the proposed Utilisation Date, a duly completed Request.

5.1.2 Each Request is irrevocable.

5.2 Completion of Requests for Advances

A Request will not be regarded as having been duly completed unless:

5.2.1 it identifies the relevant Borrower;

5.2.2 it identifies the relevant Facility to be utilised;

5.2.3 the Utilisation Date is a Business Day within the Availability Period applicable to that Facility;

5.2.4 only one currency is specified for each separate Advance and the Requested Amount for each separate Advance is in a minimum Original US Dollar Amount of US$25,000,000 (rounded to the nearest convenient 100,000 units in the case of currencies other than US Dollars); and

5.2.5 only one Term for each separate Advance is specified, which:

(A) does not overrun the Final Maturity Date applicable to the Facility under which the Advance has been requested; and

(B) is a period of one week, two weeks, one month, two, three or six months (or such other period as the Agent, acting on the instructions of all the Banks, may previously have agreed for the purposes of such Advance).

5.3 **Amount of each Bank's Advance**

The amount of each Bank's participation in each Advance will be equal to the proportion of the Requested Amount which its Available Commitment for the relevant Facility bears to the relevant Available Facility on the relevant Utilisation Date.

5.4 **Notification of the Banks**

The Agent shall promptly notify each Bank and the US Agent of the details of the requested Advances and the amount of each Bank's Advance.

5.5 **Payment of proceeds**

Subject to the terms of this Agreement, each Bank shall make its Advance available to the Agent for the Borrower concerned for value on the relevant Utilisation Date.

6. **REPAYMENT**

6.1 **Repayment of Advances**

6.1.1 Each Borrower shall repay each Facility A Advance made to it in full to the US Agent for the Banks on the Facility A Final Maturity Date. No Facility A Advance may be outstanding after the Facility A Final Maturity Date.

6.1.2 Each Borrower shall repay each Facility B Advance made to it in full to the US Agent for the Banks on the Facility B Final Maturity Date. No Facility B Advance may be outstanding after the Facility B Final Maturity Date.

6.1.3 Each Borrower shall repay each Facility C Advance made to it in full to the US Agent for the Banks on the Facility C Final Maturity Date. No Facility C Advance may be outstanding after the Facility C Final Maturity Date.

6.1.4 Each Borrower shall repay each Facility D Advance made to it in full to the US Agent for the Banks on the Facility D Final Maturity Date. No Facility D Advance may be outstanding after the Facility D Final Maturity Date.

7. **PREPAYMENT AND CANCELLATION**

7.1 **Voluntary cancellation**
The Parent may, by giving not less than three Business Days' prior written notice to the Agent and the US Agent, cancel the whole or any part of an Available Facility (but if in part, in an aggregate minimum amount of US$25,000,000). Any cancellation in part shall be applied against the Commitment of each Bank pro rata.

7.2 **Automatic cancellation of Commitment**

The undrawn Commitment of each Bank shall be automatically cancelled on the earlier of (i) a confirmation by the Parent that the Acquisition will not be completed; and (ii) the close of business in London on the last day of the Availability Period applicable to each Facility.

7.3 **Voluntary prepayment**

7.3.1 Any Borrower may, by giving not less than three Business Days' prior written notice to the Agent and the US Agent, prepay subject to breakage costs, if any, the whole or any part of an Advance made to it under a Facility (but if in part in an

aggregate minimum Original US Dollar Amount, taking all prepayments made by all the Borrowers on the same day together, of US$25,000,000).

7.3.2 Any voluntary prepayment under Clause 7.3.1 above will:

(A) be applied against Advances under the relevant Facility in such proportions as may be specified by the Parent in the notice of prepayment or, if not specified, against all Advances under the relevant Facility pro rata;

(B) be applied against the participations of the Banks in the relevant Advance pro rata; and

(C) be accompanied by all amounts payable under Clause 23.2.1(C) (*Other indemnities*) in respect of that prepayment if not made on a Term End Date of the relevant Advance.

7.4 **Mandatory Prepayment by Borrowers**

7.4.1 If any Borrower ceases to be a Subsidiary of the Parent, it shall forthwith prepay all Advances made to it together with all amounts payable by it under this Agreement, and thereupon cease to be a Borrower.

7.4.2 If any person or group of persons acting in concert gains control of the Parent:

(A) the Parent shall promptly notify the Agent and the US Agent upon becoming aware of such event; and

(B) if the Majority Banks so require, the Agent shall, by not less than 10 Business Days' written notice to the Parent and the US Agent, cancel the Total Commitments and declare all outstanding Advances, together with accrued interest, and all other amounts accrued under the Finance Documents, to be immediately due and payable, whereupon the Total Commitments will be cancelled in full and all such outstanding amounts will become immediately due and payable.

7.4.3 For the purpose of this Clause 7.4.2:

"control" has the meaning given to it in section 450 of the Corporation Tax Act 2010; and

"acting in concert" has the meaning given to it in the City Code on Takeovers and Mergers.

7.5 **Mandatory Prepayment- Refinancing Proceeds**

7.5.1 In this Clause 7.5:

"Debt Financing" means the raising of any debt finance by an Obligor (or by any other Subsidiary of the Parent) by way of one or more issuances of debt securities and/or any equity instruments which are convertible into debt (convertibles) in the international and/or domestic capital markets but excluding any issuance pursuant to any commercial paper programmes.

"Excluded Borrowed Moneys Indebtedness" means any Borrowed Moneys Indebtedness of the Group not existing as at the Signing Date but incurred after the Signing Date pursuant to a facility agreement or a commercial paper programme (whether committed or uncommitted) in place as at the Signing Date (and within the relevant limits in place as at the Signing Date).

"Existing Borrowed Moneys Indebtedness" means any Borrowed Moneys Indebtedness of the Group existing as at the Signing Date and the Target Group existing as at the Closing Date.

"Net Proceeds" means the proceeds of any Debt Financing less all costs and expenses incurred by any member of the Group in connection with that Debt

Financing (including, without limitation, all legal costs and arrangement, underwriting and agency fees).

7.5.2 Subject to Clause 7.5.3 below, the Original Borrowers and the Guarantor shall procure that an amount equal to the Net Proceeds of any Debt Financing is applied to reduce Facility A and Facility B in accordance with Clause 7.5.4 below.

7.5.3 Clause 7.5.2 does not apply to:

(A) the proceeds of any Debt Financing applied in refinancing or cancellation of any Existing Borrowed Moneys Indebtedness or Excluded Borrowed Moneys Indebtedness, which in each case mature no later than 24 months after the Signing Date;

(B) any Excluded Borrowed Moneys Indebtedness; and

(C) the Net Proceeds of any other Debt Financing provided that the total aggregate amount of Net Proceeds raised does not exceed US$1,000,000,000 plus an amount equal to any part of the Commitments voluntarily cancelled prior to the first Utilisation Date.

7.5.4 Where any Net Proceeds are to be applied to reduce Facility A and Facility B in accordance with Clause 7.5.2 above, the Net Proceeds will be allocated to be applied in the following order:

(A) *first*, in or towards pro rata prepayment of outstanding Advances under Facility A;

(B) *second*, in pro rata cancellation of the Available Commitments of the Banks under Facility A;

(C) *third*, in or towards pro rata prepayment of outstanding Advances under Facility B; and

(D) *fourth*, in pro rata cancellation of the Available Commitments of the Banks under Facility B.

Any prepayment will be made on the earlier of (i) the next Term End Date following receipt of the Net Proceeds; and (ii) 30 days following the receipt of the Net Proceeds, whereas any cancellation of Available Commitments shall be applied immediately upon receipt of the Net Proceeds (for the avoidance of doubt, only to the extent that the total amount of such Net Proceeds exceeds the amount of Net Proceeds which has been allocated to be applied in prepayment of outstanding Facility A Advances or Facility B Advances, as applicable).

7.6 **Changes to Borrowers**

7.6.1 Any Borrower in respect of which no Advance is outstanding hereunder (including any other amounts outstanding in relation thereto) may, at the request of the Parent, cease to be a Borrower by entering into a supplemental agreement to this Agreement in such form as the Agent may reasonably require which shall discharge that Borrower's obligations hereunder.

7.6.2 Any Borrower (the **"Existing Borrower"**) may be released from its obligations under this Agreement as a Borrower, provided that another Borrower (the **"Substitute Borrower"**) assumes the obligations in respect thereof of the Existing Borrower and provided further that:

(A) any such substitution shall take effect on and from the later of the day upon which the Agent notifies the Parent in writing that it is satisfied with the compliance with the matters set out in paragraphs (C) and (D) below

and the date for substitution specified in the relevant notice under paragraph (B) below;

(B) notice of the proposed substitution has been delivered by the Parent to the Agent not less than 14 days prior to the proposed substitution;

(C) no Event of Default has occurred and is continuing; and

(D) the Substitute Borrower enters into a novation agreement with the Existing Borrower, the Parent and the Agent on behalf of the Banks in the form of Part III of Schedule 4 (*Forms of Accession Documents*) together with such amendments as the Agent may reasonably require.

Each Bank authorises the Agent to sign on its behalf any novation agreement entered into in accordance with this Clause 7.6.2.

For the avoidance of doubt, this Clause 7.6 shall not operate to release the Guarantor from its obligations under this Agreement in its capacity as the Guarantor.

7.7 **Right of cancellation in relation to a Defaulting Bank**

7.7.1 If any Bank becomes a Defaulting Bank, a Borrower may, at any time whilst the Bank continues to be a Defaulting Bank, give the Agent three Business Days' notice of cancellation of each Available Commitment of that Bank.

7.7.2 On the notice referred to in Clause 7.7.1 above becoming effective, each Available Commitment of the Defaulting Bank shall immediately be reduced to zero.

7.7.3 The Agent shall as soon as practicable after receipt of a notice referred to in Clause 7.7.1 above, notify all the Banks.

7.8 **Right of prepayment and cancellation**

If any Borrower is required to pay or is notified by any Bank in writing that it will be required to pay any amount to a Bank under Clause 10 (*Taxes*) or Clause 12 (*Increased Costs*), or if circumstances exist such that a Borrower will be required to pay any amount to a Bank under Clause 10 (*Taxes*), the Parent may, whilst the circumstances giving rise or which will give rise to the requirement continue, serve a notice of prepayment and cancellation on that Bank through the Agent. On the date falling five Business Days after the date of service of the notice:

7.8.1 each Borrower shall prepay all outstanding Advances made to it by that Bank; and

7.8.2 the Bank's Commitment shall be permanently cancelled on the date of service of the notice.

7.9 **Miscellaneous provisions**

7.9.1 Any notice of prepayment and/or cancellation under this Agreement is irrevocable once given. The Agent shall notify the Banks promptly of receipt of any such notice.

7.9.2 All prepayments under this Agreement shall be made together with accrued interest on the amount prepaid and any other amounts due under this Agreement in respect of the prepayment (including, but not limited to, any amounts payable under Clause 23.2.1(C) (*Other indemnities*) if the prepayment is not made on a Term End Date of the relevant Advance).

7.9.3 No prepayment or cancellation is permitted except in accordance with the express terms of this Agreement.

7.9.4 No amount prepaid under this Clause 7 (*Prepayment and Cancellation*) may be reborrowed. No amount of the Total Commitments cancelled under this Agreement may subsequently be reinstated.

8. **INTEREST**

8.1 **Interest rate for Advances**

The rate of interest on each Advance for its Term is the rate per annum determined by the Agent to be the aggregate of:

8.1.1 the applicable Margin; and

8.1.2 LIBOR (or, in the case of an Advance denominated in euro, EURIBOR).

8.2 **Calculation of the Margin**

8.2.1 Subject to Clauses 8.2.2 and 8.2.3 the applicable Margin shall be the percentage rate per annum specified opposite the relevant margin period below:

(A) Facility A:

Relevant margin period	Margin per annum
From and including the Signing Date to and excluding the date falling six months after the Signing Date	0.40 per cent.
From and including the date falling six months after the Signing Date to and excluding the date falling nine months after the Signing Date	0.55 per cent.
From and including the date falling nine months after the Signing Date to and excluding the date falling twelve months after the Signing Date	0.70 per cent.
From and including the date falling twelve months after the Signing Date to and excluding the date falling fifteen months after the Signing Date	0.85 per cent.
From and including the date falling fifteen months after the Signing Date to and excluding the date falling eighteen months after the Signing Date	1.00 per cent.
From and including the date falling eighteen months after the Signing Date to and excluding the date falling twenty-one months after the Signing Date	1.15 per cent.
From and including the date falling twenty-one months after the Signing Date to and excluding the date falling twenty-four months after the Signing Date	1.30 per cent.
From and including the date falling twenty-four months after the Signing Date to and excluding the date falling twenty-seven months after the Signing Date	1.45 per cent.
From and including the date falling twenty-seven months after the Signing Date to and excluding the date falling thirty months after the Signing Date	1.60 per cent.

(B) Facility B:

Relevant margin period	Margin per annum
From and including the Signing Date to and excluding the date falling	0.45 per cent.

Relevant margin period	Margin per annum
six months after the Signing Date	
From and including the date falling six months after the Signing Date to and excluding the date falling nine months after the Signing Date	0.60 per cent.
From and including the date falling nine months after the Signing Date to and excluding the date falling twelve months after the Signing Date	0.75 per cent.
From and including the date falling twelve months after the Signing Date to and excluding the date falling fifteen months after the Signing Date	0.90 per cent.
From and including the date falling fifteen months after the Signing Date to and excluding the date falling eighteen months after the Signing Date	1.05 per cent.
From and including the date falling eighteen months after the Signing Date to and excluding the date falling twenty-one months after the Signing Date	1.20 per cent.
From and including the date falling twenty-one months after the Signing Date to and excluding the date falling twenty-four months after the Signing Date	1.35 per cent.
From and including the date falling twenty-four months after the Signing Date to and excluding the date falling twenty-seven months after the Signing Date	1.50 per cent.
From and including the date falling twenty-seven months after the Signing Date to and excluding the date falling thirty months after the Signing Date	1.65 per cent.
From and including the date falling thirty months after the Signing Date to and excluding the date falling thirty-three months after the Signing Date	1.80 per cent.
From and including the date falling thirty-three months after the Signing Date to and excluding the date falling thirty-six months after the Signing Date	1.95 per cent.
From and including the date falling thirty-six months after the Signing Date to and excluding the date falling thirty-nine months after the Signing Date	2.10 per cent.
From and including the date falling thirty-nine months after the Signing Date to and excluding the date falling forty-two months after the Signing Date	2.25 per cent.

(C) Facility C: 0.75 per cent. per annum.

(D) Facility D: 0.85 per cent. per annum.

8.2.2

(A) The Margin for the Term of an Advance shall be further adjusted on the applicable Rate Fixing Day for that Term by reference to the table below:

Rating (S&P/Moody's)	**Facility A** **Adjustment to Margin**	**Facility B** **Adjustment to Margin**	**Facility C** **Margin**	**Facility D** **Margin**
A-/A3 or above	Reduction by 0.075 per cent. per annum	Reduction by 0.075 per cent. per annum	0.55 per cent. per annum	0.65 per cent. per annum
BBB+/Baa1 or above	Reduction by 0.075 per cent. per annum	Reduction by 0.075 per cent. per annum	0.65 per cent. per annum	0.75 per cent. per annum
BBB/Baa2 or above	Nil	Nil	0.75 per cent. per annum	0.85 per cent. per annum
BBB-/Baa3 or below	Increase by 0.125 per cent. per annum	Increase by 0.125 per cent. per annum	0.95 per cent. per annum	1.05 per cent. per annum

(B) With respect to Facility A and Facility B, the adjustments to the Margin in the table above assume a deemed Corporate Credit Rating of BBB and a deemed Issuer Rating of Baa2 as at the Closing Date.

(C) For the purpose of this Clause 8.2.2, **"Rating"** means the corporate rating of the Parent assigned by S&P (currently known as the **"Corporate Credit Rating"**) and/ or Moody's (currently known as the **"Issuer Rating"**) as at the Rate Fixing Day on which the Margin is being determined.

(D) For the avoidance of doubt, if there is a change to the Rating during the Term of an Advance, there shall be no change in the Margin for that Term until the next Rate Fixing Day for that Advance.

(E) If Ratings are confirmed or assigned to the Parent by S&P and Moody's that are not equivalent at any time, then the Margin will be the average of the Margins applicable to such credit ratings.

(F) If only one Rating Agency publishes a Rating for the Parent, the rating assigned by that Rating Agency shall be deemed also to be the rating assigned by the other Rating Agency.

(G) If on the relevant Rate Fixing Day both Rating Agencies have ceased to publish a Rating for the Parent, the Margin for the relevant Advance shall be determined on the basis of a deemed Corporate Credit Rating of BBB- and a deemed Issuer Rating of Baa3 until the date on which a Rating Agency publishes a Rating for the Parent.

(H) The Parent shall notify the Agent promptly of any publicly announced change in its Rating.

(I) In calculating the Margin for any Advance under this Clause 8.2.2, no account shall be taken of any rating outlook or credit watch action assigned to any Rating by the relevant Rating Agency.

8.2.3 For so long as there is an Event of Default that is continuing, the applicable Margin shall be determined on the basis of a deemed Corporate Credit Rating of BBB- and a deemed Issuer Rating of Baa3 as set out in the table in Clause 8.2.2(A) above.

8.3 **Due dates**

8.3.1 Except as otherwise provided in this Agreement, accrued interest on each Advance is payable by the relevant Borrower on each Term End Date for that Advance, and also, in the case of any Advance with a Term longer than six months, at six monthly intervals after its Utilisation Date for so long as the Term is outstanding.

8.3.2 A Borrower may select a Term for an Advance in the Request for that Advance or (if the Advance has already been borrowed) in a Selection Notice (and the conditions in Clause 5.2.5 shall also apply to each Selection Notice).

8.3.3 Each Selection Notice for an Advance is irrevocable and must be delivered to the Agent by the Borrower to which that Advance was made not later than 11.00 a.m. on the applicable Rate Fixing Day.

8.3.4 If a Borrower fails to deliver a Selection Notice to the Agent in accordance with Clause 8.3.3 above, the relevant Term will be one month.

8.3.5 A Term for an Advance shall not extend beyond the Final Maturity Date applicable to the Facility under which the Advance has been made. Each Term for an Advance shall start on the Utilisation Date or (if already made) on the last day of its preceding Term.

8.3.6 If two or more Terms:

(A) relate to Advances in the same currency made to the same Borrower under the same Facility; and

(B) any Term End Dates for such Advances are the same date,

those Advances will, unless that Borrower specifies to the contrary in the Selection Notice for the next Term, be consolidated into, and treated as, a single Advance on that Term End Date.

8.4 **Default interest**

8.4.1 If an Obligor fails to pay any amount payable by it under this Agreement (an **"overdue amount"**), it shall forthwith on demand by the Agent pay interest on the overdue amount from the due date up to the date of actual payment, both before and after judgment, at a rate (the **"default rate"**) determined by the Agent to be one per cent. per annum above the higher of:

(A) the rate on the overdue amount under Clause 8.1 (*Interest rate for Advances*) immediately before the due date (in the case of principal); and

(B) the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted an Advance at the highest Margin applicable at the time in the currency of the overdue amount for such successive Terms of such duration as the Agent may determine (each a **"Designated Term"**).

8.4.2 The default rate will be determined on each Business Day or the first day of, or two Business Days before the first day of, the relevant Designated Term, as appropriate.

8.4.3 If the Agent determines that deposits in the currency of the overdue amount are not at the relevant time being made available by the Reference Banks to leading banks in the London interbank market, the default rate will be determined by reference to the cost of funds to the Agent from whatever sources it reasonably selects after consultation with the Reference Banks.

8.4.4 Default interest will be compounded at three-month intervals.

8.4.5 The Agent shall notify the Parent of the duration of each Designated Term.

8.5 **Notification of rates of interest**

The Agent will promptly notify each relevant Party of the determination of a rate of interest under this Agreement.

8.6 **Notification**

The Agent shall notify the Banks and the Borrowers of Optional Currency amounts (and the applicable Agent's Spot Rate of Exchange) promptly after they are ascertained.

9. **PAYMENTS**

9.1 **Place of Payment**

All payments by an Obligor or a Bank under this Agreement shall be made to the Agent (in the case of a payment by a Bank) or to the US Agent (in the case of a payment by an Obligor) to its account at such office or bank in the principal financial centre of the country of the currency concerned (or, in the case of a payment in euro, in the financial centre of the country selected by the Agent or, as the case may be, the US Agent) as it may notify to the Obligor or Bank for this purpose.

9.2 **Funds**

Payments under this Agreement to an Administrative Party shall be made for value on the due date at such times and in such funds as such Administrative Party may specify to the Party concerned as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.

9.3 **Distribution**

9.3.1 Each payment received by an Administrative Party under this Agreement for another Party shall, subject to Clauses 9.3.2 and 9.3.3 below, be made available by such Administrative Party to that Party by payment (on the date and in the currency and funds of receipt) to its account with such bank in the principal financial centre of the country of the relevant currency (or, in the case of a payment in euro, to its account in the financial centre of a country selected by it) as it may notify to the relevant Administrative Party for this purpose by not less than five Business Days' prior notice.

9.3.2 An Administrative Party may apply any amount received by it for an Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from an Obligor under this Agreement or in or towards the purchase of any amount of any currency to be so applied.

9.3.3 Where a sum is to be paid under this Agreement to an Administrative Party for the account of another Party, such Administrative Party is not obliged to pay that sum to that Party until it has established that it has actually received that sum. Such Administrative Party may, but is not obliged to, assume that the sum has been paid to it in accordance with this Agreement and, in reliance on that assumption, make available to that Party a corresponding amount. If the sum has not been made available but such Administrative Party has paid a corresponding amount to another Party, that Party shall forthwith on demand refund the corresponding amount to such Administrative Party together with interest on that amount from the date of payment to the date of receipt, calculated at a rate reasonably determined by such Administrative Party to reflect its cost of funds.

9.4 **Currency**

9.4.1 A repayment or prepayment of an Advance is payable in the currency in which the Advance is denominated.

9.4.2 Interest is payable in the currency in which the relevant amount in respect of which it is payable is denominated.

9.4.3 Amounts payable in respect of costs, expenses, taxes and the like are payable in the currency in which they are incurred.

9.4.4 Any other amount payable under this Agreement is, except as otherwise provided in this Agreement, payable in US Dollars.

9.5 **Set-off and counterclaim**

All payments made by an Obligor under this Agreement shall be made without set-off or counterclaim.

9.6 **Non-Business Days**

9.6.1 If a payment under this Agreement is due on a day which is not a Business Day, the due date for that payment shall instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

9.6.2 During any extension of the due date for payment of any principal under this Agreement interest is payable on the principal at the rate payable on the original due date.

9.7 **Impaired Agent**

9.7.1 If, at any time, an Administrative Party becomes an Impaired Agent and a Borrower or a Bank is required to make a payment under the Finance Documents to that Administrative Party in accordance with Clause 9.1 (*Place of Payment*), that Borrower or Bank may, subject to Clause 9.7.2 below, instead either pay that amount:

(A) direct to the required recipient; or

(B) to an interest-bearing account held with an Acceptable Bank and in relation to which no Insolvency Event has occurred and is continuing, in the name of the relevant Borrower or the Bank making the payment and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents. In each case, such payments must be made on the due date for payment under the Finance Documents.

9.7.2 If a Bank has become and continues to be a Defaulting Bank and a payment is required to be made by a Borrower or a Bank in accordance with Clause 9.7.1, that Obligor or Bank will make such payment in accordance with Clause 9.7.1(B).

9.7.3 A Party which is required to make a payment in accordance with Clause 9.7.1 shall notify the required recipient of the account into which the payment is made.

9.7.4 All interest accrued on the amounts standing to the credit of a trust account shall be for the benefit of the beneficiaries of that trust account pro rata to their respective entitlements.

9.7.5 A Party which has made a payment in accordance with this Clause 9.7 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.

9.7.6 Promptly upon the appointment of a successor Administrative Party to an Impaired Agent in accordance with Clause 19.16 (*Resignation of an Administrative Party*)), each Party which has made a payment to a trust account in accordance with this Clause 9.7 shall give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Administrative Party for distribution in accordance with Clause 9.3 (*Distribution*).

9.8 **Partial payments**

9.8.1 If an Administrative Party receives a payment insufficient to discharge all the amounts then due and payable by an Obligor under this Agreement, such

Administrative Party shall apply that payment towards the obligations of the Obligors under this Agreement in the following order:

(A) first, in or towards payment pro rata of any unpaid costs, fees and expenses of the Administrative Parties under this Agreement;

(B) secondly, in or towards payment pro rata of any accrued fees due but unpaid under Clause 20 (*Fees*);

(C) thirdly, in or towards payment pro rata of any interest due but unpaid under this Agreement;

(D) fourthly, in or towards payment pro rata of any principal due but unpaid under this Agreement; and

(E) fifthly, in or towards payment pro rata of any other sum due but unpaid under this Agreement.

9.8.2 The Administrative Parties, shall, if so directed by all the Banks, vary the order set out in Clause 9.8.1 above (other than Clause 9.8.1(A)). The Administrative Parties shall notify the Parent of any such variation.

9.8.3 Clauses 9.8.1 and 9.8.2 above shall override any appropriation made by any Obligor.

9.9 **Clawback**

9.9.1 Where a sum is to be paid to an Administrative Party under the Finance Documents for another Party, that Administrative Party is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

9.9.2 If an Administrative Party pays an amount to another Party and it proves to be the case that Administrative Party had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Administrative Party shall on demand refund the same to the Administrative Party together with interest on that amount from the date of payment to the date of receipt by an Administrative Party, calculated by the Administrative Party to reflect its costs of funds.

9.10 **Disruption to Payment Systems etc.**

If either the Agent determines (in its discretion) that a Disruption Event has occurred or the Agent is notified by the Parent that a Disruption Event has occurred:

9.10.1 the Agent shall consult with the Parent and shall use reasonable endeavours to agree with the Parent such changes to the operation or administration of the Facilities as the Agent may reasonably deem necessary in the circumstances;

9.10.2 the Agent may consult with the Finance Parties in relation to any changes mentioned in Clause 9.10.1 but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;

9.10.3 any such changes agreed upon by the Agent and the Parent shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 25 (*Amendments and Waivers*);

9.10.4 the Agent shall not be liable for any damages, costs or losses whatsoever arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 9.10 provided that any decision to act, or not to act, was taken in good faith; and

9.10.5 the Agent shall notify the Finance Parties of all changes agreed pursuant to Clause 9.10.3 above.

9.11 **Relationship between Agent and US Agent**

The Agent shall notify the US Agent of the details of all relevant payments (whether of principal, interest or fees) due to the Parties under this Agreement.

10. **TAXES**

10.1 **Gross-up**

All payments by an Obligor under the Finance Documents shall be made free and clear of and without deduction for or on account of any taxes, except to the extent that the Obligor is required by law to make payment subject to any taxes or such deduction is a FATCA Deduction. Subject to Clauses 10.3 (*Qualifying Banks*) and 10.7 (*US Borrower*), if any tax or amounts in respect of tax (other than a FATCA Deduction) must be deducted from any amounts payable or paid by an Obligor, or paid or payable by the Agent or the US Agent to a Finance Party under the Finance Documents, the Obligor shall pay such additional amounts as may be necessary to ensure that the relevant Finance Party receives a net amount equal to the full amount which it would have received had payment not been made subject to tax. The Parent shall upon becoming aware that an Obligor must make such deduction (or that there is any change in the rate or the basis of such a deduction) notify the Agent accordingly. Similarly, a Bank shall notify the Agent on becoming so aware in respect of a payment payable to that Bank (and if the Agent receives such notification it shall notify the Parent).

10.2 **Tax receipts**

All taxes required by law to be deducted or withheld by an Obligor from any amounts paid or payable under the Finance Documents shall be paid by the relevant Obligor when due and the Obligor shall, within 15 days of the payment being made, deliver to the Agent for the relevant Bank evidence satisfactory to that Bank (including any relevant tax receipts) that the payment has been duly remitted to the appropriate authority.

10.3 **Qualifying Banks**

If:

10.3.1 on the Signing Date, any Bank which is a Party on the Signing Date is not a Qualifying Bank; or

10.3.2 after the Signing Date, a Bank ceases to be a Qualifying Bank, other than as a result of the introduction, suspension, withdrawal or cancellation of, or change in, or change in the official interpretation, administration or official application of, any law, regulation having the force of law, tax treaty or any published practice or published concession of Her Majesty's Revenue & Customs or any other relevant taxing or fiscal authority in any jurisdiction with which the relevant Bank has a connection, occurring after the Signing Date or, if later, the date on which that Bank becomes a Party; or

10.3.3 on the date of any assignment, transfer or novation under Clause 26 (*Changes to the Parties*) a New Bank (as such term is defined in that Clause) is not a Qualifying Bank,

then no UK Resident Borrower shall be liable to pay to that Bank under Clause 10.1 (*Gross-up*) any amount in respect of taxes levied or imposed by the UK or any taxing authority of or in the UK in excess of the amount (if any) it would have been obliged to pay if that Bank had been, or had not ceased to be, a Qualifying Bank.

10.4 **Tax Credit**

10.4.1 If an Obligor makes a payment pursuant to Clause 10.1 (*Gross-up*) for the account of any Finance Party and such Finance Party has received or been granted a credit against, or relief or remission or repayment of, any tax paid or payable by it (a **"Tax Credit"**) which is attributable to that payment or the corresponding payment under the Finance Document such Finance Party shall, to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment, pay to the Obligor concerned such amount as the Finance Party shall have reasonably determined to be attributable to such payments and which will leave the Finance Party (after such payment) in no better or worse position than it would have been if the Obligor concerned had not been required to make any deduction or withholding.

10.4.2 Nothing in this Clause 10.4 shall interfere with the right of a Finance Party to arrange its tax affairs in whatever manner it thinks fit and without limiting the foregoing no Finance Party shall be under any obligation to claim a Tax Credit or to claim a Tax Credit in priority to any other claims, relief, credit or deduction available to it. No Finance Party shall be obliged to disclose any information relating to its tax affairs or any computations in respect thereof. Unless it would in a Bank's reasonable judgement be prejudicial to its interests, such Bank shall seek any Tax Credit available to it consequent upon any deductions or withholdings for tax being made from any payment to it under Clause 10.1 (*Gross-up*).

10.5 **Borrower DTTP Filing**

10.5.1 If a Bank holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to this Agreement, it shall, or the Agent shall (if notified by the Bank) on its behalf, notify the Parent in accordance with the provisions of Clause 32 (*Notices*) that the relevant Bank wishes the scheme to apply and provide that Bank's scheme reference number and jurisdiction of tax residence within five Business Days of becoming a Party to this Agreement.

10.5.2 Each Bank which wishes the HMRC DT Treaty Passport scheme to apply to this Agreement shall promptly provide such further information (directly to an Obligor or via the Agent) as an Obligor may request in order to enable the Obligor to make a Borrower DTTP Filing.

10.5.3 If a Borrower had received authority from HM Revenue & Customs to make payments to that Bank without deduction for or on account of tax as a result of a Borrower DTTP Filing, but as a result of (i) a withdrawal or expiry of that authority; or (ii) a withdrawal or cessation of the DTTP passport scheme due to any change in law or change in practice of HM Revenue & Customs, it is no longer possible for that Borrower to make payments to the Bank without deduction for or on account of tax by virtue of that authority, and the Borrower has notified that Bank in writing, that Bank and the Borrower shall co-operate in completing any additional procedural formalities necessary for that Borrower to obtain authorisation to make payment without deduction for or on account of tax.

10.6 **FATCA**

10.6.1 Each Party may make any FATCA Deduction and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

10.6.2 Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) in respect of an Advance made to an Obligor that is not a US Person, notify the Party to whom it is making payment and, in addition, shall notify the Parent, the Agent and the other Finance Parties.

10.6.3 Subject to Clause 10.6.4 below, each Party shall, within ten Business Days of a reasonable request by another Party, confirm to that other Party whether it is entitled to receive payments under the Finance Documents free from any deduction or withholding required by FATCA (hereafter referred to as **"FATCA Exempt"**) or is not so entitled, and shall supply to that other Party such forms, documentation and other information relating to its status under FATCA (including information required under the US Treasury Regulations or other official guidance including intergovernmental agreements) as that other Party reasonably requests and is necessary for the purposes of that other Party's compliance with FATCA or any other exchange of information regime (provided that the necessity of such request is reasonably evidenced to the satisfaction of the Party to whom the request is made (acting reasonably)). If a Party confirms to another Party pursuant to this Clause that it is FATCA Exempt and it subsequently becomes aware that it is not, or has ceased to be FATCA Exempt, that Party shall promptly notify that other Party.

10.6.4 Clause 10.6.3 above shall not oblige a Finance Party to do anything which would or might in its reasonable opinion constitute a breach of any law or regulation, any fiduciary duty or any duty of confidentiality.

10.6.5 If a Finance Party fails to confirm its status or to supply forms, documentation or other information requested in accordance with Clause 10.6.3 above (including, for the avoidance of doubt, where Clause 10.6.4 above applies), then if that Finance Party failed to confirm whether it is (and/or remains) FATCA Exempt then such Finance Party shall be treated for the purposes of this Agreement as if it is not FATCA Exempt until such time as the Finance Party provides the requested confirmation, forms, documentation or other information.

10.7 **US Borrower**

10.7.1 Without prejudice to the generality of the foregoing, any Finance Party that is entitled to an exemption from or reduction of withholding tax with respect to payments made under any Finance Document shall deliver to the Agent or the relevant Obligor, at the time or times reasonably requested by the Agent or any Obligor, such properly completed and executed documentation reasonably requested by the Agent or such Obligor as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Finance Party, if reasonably requested by the Agent or any Obligor, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Agent or such Obligor as will enable the Agent or such Obligor to determine whether or not such Finance Party is subject to backup withholding or information reporting requirements. This Clause 10.7.1 shall not require any Finance Party to provide to the Agent or any Obligor any documentation if it would result in a breach of any applicable law or regulation, any fiduciary duty or any duty of confidentiality (other than any such documentation required to be provided under Clause 10.7.2 or Clause 10.7.3). Any taxes attributable to a Finance Party's failure to comply with this Clause 10.7.1 shall be considered excluded from the gross-up provided in Clause 10.1.

10.7.2 Without limitation to the generality of the foregoing, each Finance Party that is a US Person shall:

(A) on or prior to the Signing Date (or, if it becomes a Finance Party after such date, on the date it becomes a Finance Party); or

(B) otherwise, from time to time thereafter as reasonably requested by the Agent or any Obligor (but only so long as such Finance Party is lawfully able to do so),

provide the Agent and the relevant Obligor with one copy of a properly completed and duly executed Internal Revenue Service Form W-9 (or any successor or other form prescribed by the Internal Revenue Service) certifying that such Finance Party is a US Person and is not subject to US backup withholding on payments made by an Obligor that is a US Person to such Finance Party under any Finance Document.

10.7.3 Without limitation to the generality of the foregoing, each Finance Party that is not a US Person shall: (i) on or prior to the Signing Date (or, if it becomes a Finance Party after such date, on the date it becomes a Finance Party); or (ii) otherwise, from time to time thereafter as reasonably requested by the Agent or any Obligor (but only so long as such Finance Party is lawfully able to do so):

(A) in the case of a Finance Party claiming the benefits of an exemption from or a reduction in US federal withholding tax pursuant to a double taxation agreement between the United States and the jurisdiction of which such Finance Party is or is treated as a resident, provide the Agent and the relevant Obligor with one copy of a properly completed and duly executed Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable (or any successor or other form prescribed by the Internal Revenue Service), certifying that such Finance Party is exempt from or entitled to a reduced rate of US federal withholding tax under an applicable double taxation agreement or treaty on payments made by an Obligor that is a US Person to such Finance Party under any Finance Document;

(B) in the case of a Finance Party claiming the benefits of an exemption from US federal withholding tax because payments otherwise subject to such withholding tax made by an Obligor that is a US Person are effectively connected with such Finance Party's conduct of a trade or business within the United States, provide the Agent and the relevant Obligor with one copy of a properly completed and duly executed Internal Revenue Service Form W-8ECI (or any successor or other form prescribed by the Internal Revenue Service) certifying that such payments are effectively connected with the conduct of a trade or business within the United States;

(C) in the case of a Finance Party claiming the benefits of the exemption from US federal withholding tax pursuant to Section 881(c) of the Code with respect to payments of "portfolio interest" made by an Obligor that is a US Person to such Finance Party under any Finance Document, provide the Agent and the relevant Obligor with:

(1) a certificate to the effect that such Finance Party is: (i) not a "bank" (within the meaning of Section 881(c)(3)(A) of the Code); (ii) not a 10-percent shareholder of any Obligor (within the meaning of Section 881(c)(3)(B) of the Code); and (iii) not a controlled foreign corporation related to any Obligor (as such term is described in Section 881(c)(3)(C) of the Code); and

(2) one copy of a properly completed and duly executed Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable (or any successor or other form prescribed by the Internal Revenue Service), certifying that such Finance Party is not a US Person; or

(D) in the case of a Finance Party that is a foreign intermediary or foreign flow-through entity for US federal income tax purposes, provide the Agent and the relevant Obligor with one copy of a properly completed and duly executed Internal Revenue Service Form W-8IMY (or any successor or other form prescribed by the Internal Revenue Service) as a basis for claiming an exemption from or a reduction in US federal withholding tax

on payments made by the relevant Obligor that is a US Person to such Finance Party under any Finance Document, together with any supplementary information such Finance Party is required to transmit with such form and, in the case of a nonqualified intermediary that is a Finance Party or a non-withholding Finance Party that is a foreign flow-through entity, with respect to each beneficiary or member of such Finance Party, one copy of the forms or certificates described in paragraphs (A), (B) or (C) above of this Clause 10.7.3, as applicable.

10.7.4 If a Finance Party fails to provide the Agent or the relevant Obligor with the appropriate Internal Revenue Service form or, if applicable, the certificate, each as described above and each being properly completed and duly executed, or to update them as requested (other than if the failure to furnish such form or certificate is due to a change in law, or in the interpretation or application thereof, occurring after the date on which the form or certificate originally was required to be provided or if such form, certificate or other document otherwise is not required under Clause 10.7.1, 10.7.2 or 10.7.3), US backup withholding tax and US federal withholding tax, in each case, imposed on any amount paid by (or on account of) an Obligor that is a US Person under any Finance Document shall be considered excluded from the gross-up provided in Clause 10.1 by reason of such failure unless and until such Finance Party provides the appropriate Internal Revenue Service form or certificate that is properly completed and duly executed establishing (A) an exemption from US backup withholding tax and (B) a complete exemption from, or a reduction of, US federal withholding tax on such amount, whereupon US federal withholding tax at such reduced rate only (to the extent a complete exemption is not available to such Finance Party) shall be considered excluded from such gross-up for periods governed by such form and certificate. If any Internal Revenue Service form provided by a Finance Party pursuant to this Clause 10.7.4 at the time such Finance Party first becomes a Finance Party hereunder, or when it first provides such form, indicates a US federal withholding tax rate in excess of zero in respect of any amount paid by (or an account of) the relevant Obligor that is a US Person to such Finance Party under any Finance Document, US federal withholding tax imposed on such amount at such rate shall be considered excluded from the gross-up provided in Clause 10.1 unless and until such Finance Party provides the appropriate form certifying that a lesser rate applies, whereupon US federal withholding tax at the lesser rate only shall be considered excluded from the gross-up for periods governed by such form; provided, however, that if at the date a New Bank becomes a party to this Agreement or any other Finance Document, the applicable transferor Existing Bank was entitled to payments under Clause 10.1 in respect of US federal withholding tax in connection with any amount paid at such date, then, to that extent, the payments under Clause 10.1 shall include an amount of US federal withholding tax applicable with respect to such transferor Existing Bank on such date.

10.7.5 On or prior to the Signing Date (and from time to time thereafter as reasonably requested by any Obligor), the US Agent shall provide to any Obligor that is a US Person a properly completed and duly executed Internal Revenue Service Form W-9.

11. MARKET DISRUPTION

11.1 Market disturbance

Notwithstanding anything to the contrary herein contained, if and each time that prior to or on a Utilisation Date relative to an Advance to be made:

11.1.1 only one or no Reference Bank supplies a rate for the purposes of determining LIBOR or EURIBOR (as the case may be); or

11.1.2 the Agent is notified by Banks whose Commitments represent 25 per cent. or more of the Total Commitments that deposits in the currency of that Advance are not in the ordinary course of business available in the London Interbank Market for a period equal to the Term concerned in amounts sufficient to fund their participations in that Advance; or

11.1.3 the Agent is notified by Banks whose Commitments represent 25 per cent. or more of the Total Commitments that by reason of circumstances affecting the London Interbank Market generally, adequate and fair means do not exist for ascertaining the LIBOR or EURIBOR (as the case may be) applicable to such Advance during its Term or LIBOR or EURIBOR (as the case may be) does not adequately represent the cost of funding to the Banks,

the Agent shall promptly give written notice of such circumstance (in respect of Clause 11.1.1) or notification to the Parent and to each of the Banks.

11.2 **Alternative Rates**

If the Agent gives a notice under Clause 11.1 (*Market disturbance*):

11.2.1 the Parent and the Banks may (through the Agent) agree that the Advances concerned shall not be borrowed; or

11.2.2 in the absence of such agreement:

(A) the Term of the Advances concerned shall be one month;

(B) in the case of Clause 11.1.2, the Advance shall be denominated in US Dollars in an amount equal to the Original US Dollar Amount of the Advance concerned; and

(C) during the Term of each Advance the rate of interest applicable to such Advance shall be the applicable Margin plus the rate per annum notified by each Bank concerned to the Agent before the relevant Term End Date to be that which expresses as a percentage rate per annum the cost to such Bank of funding such Advances from whatever sources it may reasonably select.

11.3 **Non-availability of currency**

If any Bank notifies the Agent before 10.00 a.m. (London time) on the Business Day prior to the proposed Utilisation Date of an Advance to be denominated in an Optional Currency that it is unable for any reason to fund its participation in such Advance in the Optional Currency concerned, the Agent shall notify the Parent and such Bank shall make its participation in the Advance available in US Dollars for the period in question.

11.4 **Change in circumstances**

If before 9.00 a.m. (London time) on the proposed Utilisation Date in respect of an Advance which is to be denominated in an Optional Currency, there occurs any change in national or international financial, political or economic conditions, currency availability, currency exchange rates or exchange controls, which in the opinion of the Agent renders the making of the Advance in such currency impracticable:

11.4.1 the Agent shall give notice to each of the Banks and the Parent to that effect as soon as practicable but in any event before 11.00 a.m. (London time) on the proposed Utilisation Date;

11.4.2 unless the Parent and the Banks agree otherwise, the Advance shall be made in US Dollars and the Rate Fixing Day for the Term of the Advance shall be the Utilisation Date; and

11.4.3 the relevant Borrower shall pay to the US Agent on behalf of the Bank any amount claimed in accordance with Clause 23.2 (*Other indemnities*).

11.5 **Change in currency**

11.5.1 If more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(A) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent; and

(B) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent acting reasonably.

11.5.2 If any change in any currency of a country occurs, this Agreement will be amended to the extent the Agent specifies to be necessary to reflect the change in the currency and to put the Finance Parties in the same position, so far as possible, that they would have been in if no change in currency had occurred.

12. INCREASED COSTS

12.1 Increased costs

12.1.1 Subject to Clause 12.3 (*Exceptions*), the Borrowers shall forthwith on demand by a Finance Party pay that Finance Party the amount of any increased cost incurred by it or any of its holding companies as a result of any change in or change in the interpretation of or introduction of any law or regulation (including any relating to taxation or reserve asset, special deposit, cash ratio, liquidity or capital adequacy requirements or any other form of banking or monetary control introduced by any central bank or other competent authority), or reduce or repay that Finance Party's commitments or outstandings without penalty.

12.1.2 In this Agreement, **"increased cost"** means:

(A) an additional cost incurred by a Finance Party or any of its holding companies as a result of it performing, maintaining or funding its obligations under, this Agreement; or

(B) that portion of an additional cost incurred by a Finance Party or any of its holding companies in making, funding or maintaining all or any advances comprised in a class of advances formed by or including the Advances made or to be made by it under this Agreement as is attributable to it making, funding or maintaining its Advances; or

(C) a reduction in any amount payable to a Finance Party or the effective return to a Finance Party under this Agreement or on its capital (or the capital of any of its holding companies); or

(D) the amount of any payment made by a Finance Party, or the amount of interest or other return foregone by a Finance Party, calculated by reference to any amount received or receivable by a Finance Party from any other Party under this Agreement.

12.2 Increased costs claim

12.2.1 A Finance Party intending to make a claim pursuant to Clause 12.1 (*Increased costs*) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Parent.

12.2.2 Each Finance Party shall, as soon as practicable after a demand by the Agent or the Parent, provide a certificate confirming the amount of its increased costs, detailing the calculation of the claim and confirming that it has considered whether there are any reasonable steps available to it to mitigate the circumstances of such claim in accordance with Clause 13.2 (*Mitigation*) and there are no such steps available to it.

12.3 **Exceptions**

Clause 12.1 (*Increased costs*) does not apply to any increased cost:

12.3.1 attributable to any tax or amounts in respect of tax which must be deducted from any amounts payable or paid by a Borrower, or paid or payable by the Agent or the US Agent, to a Finance Party under the Finance Documents;

12.3.2 which is, or is attributable to, any tax on the overall net income, profits or gains of a Finance Party or any of its holding companies (or the overall net income, profits or gains of a division or branch of the Finance Party or any of its holding companies) or any branch profit tax with respect to such division or branch;

12.3.3 attributable to a Finance Party or its Affiliate wilfully failing to comply with any law or regulation; or

12.3.4 attributable to a FATCA Deduction required to be made by a Party.

13. **ILLEGALITY AND MITIGATION**

13.1 **Illegality**

If it becomes unlawful in any jurisdiction for a Bank to give effect to any of its obligations as contemplated by this Agreement or to fund or maintain any Advance or it becomes unlawful for any Affiliate of a Bank for that Bank to do so, then the Bank may notify the Parent through the Agent accordingly and thereupon:

13.1.1 each Borrower shall, upon request from that Bank within the period allowed or if no period is allowed, forthwith, repay any Advances made to it by that Bank together with all other amounts payable by it to that Bank under this Agreement; and

13.1.2 the Bank's Commitment shall be cancelled.

13.2 **Mitigation**

Notwithstanding the provisions of Clauses 10 (*Taxes*), 12 (*Increased Costs*) and 13.1 (*Illegality*), if in relation to a Finance Party circumstances arise which would result in:

13.2.1 any deduction, withholding or payment of the nature referred to in Clause 10 (*Taxes*); or

13.2.2 any increased cost of the nature referred to in Clause 12 (*Increased Costs*); or

13.2.3 a notification pursuant to Clause 13.1 (*Illegality*),

then without in any way limiting, reducing or otherwise qualifying the rights of such Finance Party, such Finance Party shall promptly upon becoming aware of the same notify the Agent thereof (whereupon the Agent shall promptly notify the Parent) and such Finance Party shall use reasonable endeavours to transfer its participation in the Facilities and its rights hereunder and under the Finance Documents to another financial institution or Facility Office not affected by the circumstances having the results set out in Clauses 13.2.1 to 13.2.3 above and shall otherwise take such reasonable steps as may be open to it to mitigate the effects of such circumstances provided that such Finance Party shall not be under any obligation to take any such action if, in its reasonable opinion, to do so would or would be likely to have a material adverse effect upon its business, operations or financial condition or would involve it in any unlawful activity or any activity that is contrary to its policies or any request, guidance or directive of any competent authority (whether or not having the force of law) or (unless indemnified to its satisfaction) would involve it in any significant expense or tax disadvantage.

14. **GUARANTEE**

14.1 **Guarantee**

The Guarantor irrevocably and unconditionally:

14.1.1 guarantees to each Finance Party prompt performance by each Borrower of all its obligations under the Finance Documents;

14.1.2 undertakes with each Finance Party that whenever a Borrower does not pay any amount when due under or in connection with any Finance Document, the Guarantor shall forthwith on demand by the Agent pay that amount as if the Guarantor instead of the relevant Borrower were expressed to be the principal obligor; and

14.1.3 indemnifies each Finance Party on demand against any loss or liability suffered by it if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal.

14.2 **Continuing guarantee**

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

14.3 **Reinstatement**

14.3.1 Where any discharge, release or arrangement (whether in respect of the obligations of any Borrower or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise without limitation, the liability of the Guarantor under this Clause 14 shall continue as if the discharge or arrangement had not occurred (but only to the extent that such payment, security or other disposition is avoided or restored).

14.3.2 Each Finance Party may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

14.4 **Waiver of defences**

The obligations of the Guarantor under this Clause 14 will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Clause 14 or prejudice or diminish those obligations in whole or in part, including, without limitation, (whether or not known to it or any Finance Party):

14.4.1 any time or waiver granted to, or composition with, any Borrower or other person;

14.4.2 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

14.4.3 any incapacity or lack of powers, authority or legal personality of or dissolution or change in the members or status of a Borrower or any other person;

14.4.4 any variation (however fundamental) or replacement of a Finance Document or any other document or security so that references to that Finance Document in this Clause 14 shall include each variation or replacement;

14.4.5 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security, to the intent that the Guarantor's obligations under this Clause 14 shall remain in full force and its guarantee be construed accordingly, as if there were no unenforceability, illegality or invalidity; and

14.4.6 any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of any Borrower under a Finance Document resulting from any insolvency, liquidation or dissolution proceedings or from any

law, regulation or order so that each such obligation shall for the purposes of the Guarantor's obligations under this Clause 14 be construed as if there were no such circumstance.

14.5 **Immediate recourse**

The Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Clause 14. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

14.6 **Appropriations**

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

14.6.1 refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and

14.6.2 hold in an interest bearing suspense account any moneys received from the Guarantor or on account of the Guarantor's liability under this Clause 14.

14.7 **Non-competition**

Until all amounts which may be or become payable by the Borrowers under or in connection with the Finance Documents have been paid in full, the Guarantor shall not, after a claim has been made or by virtue of any payment or performance by it under this Clause 14:

14.7.1 be subrogated to any rights, security or moneys held, received or receivable by any Finance Party (or any trustee or agent on its behalf) or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Guarantor's liability under this Clause 14;

14.7.2 claim, rank, prove or vote as a creditor of any Borrower or its estate in competition with any Finance Party (or any trustee or agent on its behalf); or

14.7.3 receive, claim or have the benefit of any payment, distribution or security from or on account of any Borrower, or exercise any right of set-off as against any Borrower.

The Guarantor shall hold on trust for and forthwith pay or transfer to the US Agent for the Finance Parties any payment or distribution or benefit of security received by it contrary to this Clause 14.7.

14.8 **Additional security**

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

15. **REPRESENTATIONS AND WARRANTIES**

15.1 **Representations and warranties**

Each Obligor makes the representations and warranties set out in this Clause 15 to each Finance Party (but in the case of an Obligor other than the Parent only in respect of itself).

15.2 **Status**

It is a duly incorporated and validly existing corporation under the laws of the jurisdiction of its incorporation.

15.3 **Powers and authority**

It has the power to enter into, or, as the case may be, to comply with, and be bound by all obligations expressed on its part under the Finance Documents and (in the case of a Borrower) to borrow under this Agreement and (in the case of the Guarantor) to give the guarantee in Clause 14 (*Guarantee*) and has taken all necessary actions to authorise (in the case of a Borrower) borrowings under this Agreement and (in the case of the Guarantor) the giving of the guarantee in Clause 14 (*Guarantee*) and to authorise the execution, delivery and performance of the Finance Documents.

15.4 **Non-conflict**

The execution, delivery and performance of the Finance Documents will not violate any provisions of any existing law or regulation or statute applicable to it or of any mortgage, contract or other undertaking to which it is a party or which is binding upon its assets.

15.5 **Borrowing limits**

Borrowings under this Agreement up to and including the maximum amount available under this Agreement will not when borrowed cause any limit on borrowings or, as the case may be, on the giving of guarantees (whether imposed by statute, regulation, agreement or otherwise), or on the powers of its board of directors, applicable to it to be exceeded.

15.6 **Authorisations**

All relevant consents or authorisations of any governmental authority or agency required by it in connection with the execution, validity, performance or enforceability of the Finance Documents have been obtained and are subsisting.

15.7 **Pari passu**

Its obligations under the Finance Documents constitute its legal, valid and binding unsecured and unsubordinated obligations ranking (subject to the preference of certain obligations in the liquidation, bankruptcy or other analogous proceedings in respect of it by operation of applicable law) pari passu with all its other unsecured and unsubordinated obligations.

15.8 **Litigation**

Save in respect of legal or arbitration proceedings disclosed in the last published annual audited or interim unaudited consolidated financial statements of the Parent or disclosed by the Parent to the Agent in writing on or before the Signing Date, (i) no liability has arisen in relation to any legal or arbitration proceedings involving any member of the Group which will require a provision to be made in the next published consolidated financial statements of the Parent and, in the reasonable judgement of the board of directors of the Parent, will have a material adverse effect on the ability of the Obligors (taken as a whole) to perform their obligations under the Finance Documents; and (ii) to the best of the knowledge of the Obligors, no actions or investigations by any governmental or regulatory agency are ongoing against any of the Obligors in relation to an alleged breach of any Anti-Bribery and Corruption Laws or Anti-Money Laundering Laws.

15.9 **Material adverse change**

There has been no material adverse change in the financial condition of the Group (taken as a whole) since the last audited consolidated financial statements of the Group, which in the reasonable judgement of the board of directors of the Parent has had or will have a material adverse effect on the Obligors' ability (taken as a whole) to perform their obligations under the Finance Documents. This Clause 15.9 does not apply to matters covered by Clause 15.8 (*Litigation*).

15.10 **Accounts**

The most recent audited consolidated profit and loss account and balance sheet of the Parent which have been or are to be delivered to the Agent together with the notes thereto give a true and fair view of the results of the operations of the Parent and its Subsidiaries for the period to which they relate and, as the case may be, the financial position of the Parent and its Subsidiaries as at the date to which they relate and have been prepared in accordance with GAAP consistently applied.

15.11 **Sanctions and Anti-Bribery and Corruption**

15.11.1 None of the Obligors nor, to the best of the knowledge of the Obligors, any director, officer, agent, employee or affiliate of the Obligors (i) are currently subject to any sanctions administered by OFAC or any equivalent sanctions administered by the European Union or HM Treasury; or (ii) has engaged in any activity which would breach the Anti-Bribery and Corruption Laws or Anti-Money Laundering Laws.

15.11.2 Each of the Obligors have in place and will enforce policies and procedures designed to ensure compliance with the Anti-Bribery and Corruption Laws and Anti-Money Laundering Laws.

15.12 **No Event of Default**

No Event of Default has occurred and is continuing.

15.13 **Investment company status**

No US Borrower is required to be registered as an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

15.14 **ERISA and Multiemployer Plans**

All US Borrowers and their ERISA Affiliates are in compliance with all applicable provisions and requirements of ERISA and the Code and the regulations thereunder with respect to each Employee Plan, except for instances of non-compliance that would not reasonably be expected to result in a material adverse effect on the ability of the Obligors (taken as a whole) to perform their obligations under the Finance Documents. No ERISA Events have occurred, except as would not reasonably be likely to result in a material adverse effect on the ability of the Obligors (taken as a whole) to perform their obligations under the Finance Documents.

15.15 **Times for making representations and warranties**

The representations and warranties set out in this Clause 15:

15.15.1 are made on the Signing Date;

15.15.2 (except for Clause 15.8 (*Litigation*), Clause 15.9 (*Material adverse change*), Clause 15.10 (*Accounts*), Clause 15.11 (*Sanctions*) and Clause 15.14 (*ERISA and Multiemployer Plans*)) in the case of an Obligor which becomes a Party after the Signing Date, are deemed to be made by that Obligor on the date it executes a Borrower Accession Agreement; and

15.15.3 (except for Clause 15.8 (*Litigation*), Clause 15.9 (*Material adverse change*), Clause 15.11 (*Sanctions*) and Clause 15.14 (*ERISA and Multiemployer Plans*)) are deemed to be repeated by each Obligor with reference to the facts and circumstances then existing on:

(A) the date of each Request;

(B) each Utilisation Date; and

(C) the first day of each Term,

in each case in respect of any Advance.

15.15.4 (except for Clause 15.8 (*Litigation*), Clause 15.9 (*Material adverse change*), Clause 15.11 (*Sanctions*) and Clause 15.14 (*ERISA and Multiemployer Plans*)) are deemed to be repeated by each Obligor with reference to the facts and circumstances then existing on each date on which the Facility A Final Maturity Date and Facility B Final Maturity Date is extended in accordance with Clause 2.4 (*Extension Option*).

16. UNDERTAKINGS

16.1 Duration

The undertakings in this Clause 16 will remain in force from the Signing Date for so long as any amount is or may be outstanding under this Agreement or any Commitment is in force.

16.2 Financial information

Each Obligor shall supply to the Agent in sufficient copies for all the Banks:

16.2.1 as soon as the same are publicly available (and in any event within 180 days of the end of each of its financial years):

(A) in the case of the Parent, its audited consolidated financial statements for that financial year; and

(B) in the case of each other Obligor, its audited statutory accounts for that financial year; and

16.2.2 as soon as the same are publicly available (and in any event within 90 days of the end of the first half-year of each of its financial years) in the case of the Parent, its interim unaudited consolidated financial statements for that half-year.

16.3 Information - Miscellaneous

The Parent shall supply to the Agent (in sufficient copies for all the Banks if the Agent so requests):

16.3.1 all documents despatched by it to its shareholders (or any class of them) or its creditors generally (or any class of them) in relation to it or its Subsidiaries at the same time as they are despatched;

16.3.2 promptly upon becoming aware of them, details of any legal or arbitration proceedings of the kind referred to in Clause 15.8 (*Litigation*); and

16.3.3 as soon as reasonably practicable, such further information in the possession or control of the Parent regarding its financial condition, business or operations as the Agent may reasonably request unless such information is, in the sole opinion of the Parent, confidential or price sensitive (acting in good faith).

16.4 Notification of Default

The Parent shall notify the Agent of any Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of it.

16.5 Authorisations

Each Obligor shall promptly:

16.5.1 comply with the terms of each Finance Document to which it is a party; and

16.5.2 obtain and maintain, and, if requested, supply certified copies to the Agent of, any authorisation required under any law or regulation to enable it to perform its obligations under, or for the validity or enforceability of, any Finance Document to which it is a party.

16.6 Pari passu ranking

Each Obligor shall procure that its obligations under the Finance Documents do and will rank at least pari passu with all its other present and future unsecured and unsubordinated obligations (subject to the preference of certain obligations in the liquidation, bankruptcy or other analogous proceedings in respect of it by operation of applicable law).

16.7 **Negative pledge**

No Obligor shall create or permit to subsist any Security Interest on any of its assets except for any Security Interest:

16.7.1 to secure any excise or import taxes or duties, tobacco taxes or sales or goods and services taxes owed to, or industrial grants made by, any state, government, political sub-division or international organisation, or any agency, authority, instrumentality or body of any thereof or any regulatory authority; or

16.7.2 created or arising with the prior written approval of the Majority Banks; or

16.7.3 created or arising out of retention of title provisions or a conditional sale in respect of goods acquired by an Obligor in the ordinary course of business; or

16.7.4 which is a lien or other Security Interest arising in the ordinary course of business consistent with past practice and not securing Borrowings; or

16.7.5 over assets or revenues acquired after the Signing Date and existing on the date of such acquisition and not created in contemplation thereof provided the aggregate principal amount secured thereby at the date of acquisition is not exceeded; or

16.7.6 the principal purpose and effect of which is to allow the setting-off or netting of obligations with those of a financial institution in the ordinary course of the cash management arrangements of the Group; or

16.7.7 constituted by netting, set-off or cash collateral arrangements in relation to swaps or other derivative agreements in the ordinary course of its business; or

16.7.8 arising under arrangements in connection with the participation in or trading on or through any clearing system or investment, commodities or stock exchange where the Security Interest arises in the ordinary course of business under the rules or normal procedures or legislation governing such system or exchange; or

16.7.9 on Margin Stock or otherwise over securities, derivatives or commodities, in respect of the acquisition cost of securities, derivatives or commodities owed to a dealer therein or an agent for the purchase thereof where such cost falls to be paid within 180 days of being incurred; or

16.7.10 arising out of or in connection with pre-judgment legal process or a judgment or a judicial award relating to security for costs; or

16.7.11 which is to renew, extend or replace a Security Interest permitted by this Clause 16.7 if the principal amount secured is not thereby exceeded and such permitted Security Interest is discharged or released within three months of the creation of the replacement Security Interest; or

16.7.12 created by it in favour of another Obligor, or

16.7.13 over cash or cash equivalents covering Defeased Borrowings; or

16.7.14 created by or arising out of any Obligor provided the aggregate principal, capital or nominal amount secured by all such Security Interests does not exceed £400,000,000 or its equivalent in other currencies at any one time.

16.8 **Disposals**

The Parent shall not, either in a single transaction or in a series of transactions, whether related or not and whether voluntarily or involuntarily, sell, transfer, grant or lease or otherwise dispose of all or substantially all of its assets (save for the purposes of an

amalgamation, reconstruction or corporate reorganisation, the terms of which have been approved by the Majority Banks).

16.9 **Change of business**

The Group taken as a whole shall not change to a material extent the nature of the businesses carried on by the Group as at the Signing Date.

16.10 **Insurance**

The Parent will procure that each member of the Group will effect and maintain such insurance over and in respect of its respective assets and business and in such a manner and to such extent as is reasonable and customary for a business enterprise engaged in the same or a similar business and in the same or similar localities.

16.11 **Environmental undertakings**

16.11.1 Each Obligor will not, and the Parent will procure that no member of the Group will, other than when duly licensed by the appropriate regulatory authorities, use, generate, store, handle, transport, dump, release, deposit, bury, emit, abandon or place any Dangerous Substance at, on, from or under any property which it owns or occupies if to do so will have a material adverse effect on the ability of the Obligors (taken as a whole) to perform their obligations under the Finance Documents.

16.11.2 Each Obligor will, and the Parent will procure that each member of the Group will, comply in all respects (consistently with the manner in which similar businesses operating in the relevant jurisdiction comply) with:

(A) all applicable Environmental Laws; and

(B) the terms of all Environmental Approvals necessary for the ownership and operation of its facilities and businesses as owned and operated from time to time,

if failure to do so will have a material adverse effect on the ability of the Obligors (taken as a whole) to perform their obligations under the Finance Documents.

16.12 **Sanctions and Anti-Bribery and Corruption**

Each Obligor will ensure that the proceeds of any Advance will not directly or indirectly be lent, contributed or otherwise made available to any person or entity (whether or not related to any Obligor) for (i) the purpose of financing the activities of any person currently subject to any sanctions administered by OFAC or any equivalent sanctions administered by the European Union or HM Treasury; or (ii) for any purpose that would breach the Anti-Bribery and Corruption Laws or Anti-Money Laundering Laws.

16.13 **Margin Stock**

None of the Advances will be used by any of the Obligors (i) to directly or indirectly purchase or carry any Margin Stock; (ii) to refinance any Borrowings originally incurred for any such purpose; or (iii) for any other purpose or in any other manner that, in each case, would violate (including on the part of any Finance Party) any provision of Regulation U or X of the Board of Governors of the Federal Reserve System of the United States.

17. **FINANCIAL COVENANT**

17.1 **Definitions**

17.1.1 In this Clause 17:

"Associates and Joint Ventures" means entities (other than a subsidiary or a joint operation) in which any member of the Group has a participating interest and exercises significant influence or joint control, respectively, and which are equity accounted in accordance with IAS 28.

"EBITDA" means, in respect of any Ratio Period, the aggregate of:

(A) the consolidated profit for the period of the Group, including results from discontinued operations and the Group's share of the post-tax results of Associates and Joint Ventures;

adjusted by:

(B) adding back net finance costs and taxation for the period (including net finance costs and taxation included within Associates and Joint Ventures);

(C) taking no account of any adjusting items (as such term is used in the most recent consolidated financial statements of the Parent), including (but not restricted to) gains or losses arising on:

(1) restructurings of the activities of an entity and reversals of any provisions for the costs of restructuring;

(2) disposals of non-current assets, including the disposal of net assets associated with discontinued operations;

(3) amortisation of trademarks and similar items;

(4) adjusting items of Associates and Joint Ventures;

(D) taking no account of any income or charge attributable to a defined benefit pensions scheme other than the current service costs on plan liabilities attributable to the scheme;

(E) adding back any depreciation and amortisation and taking no account of any charge for impairment or any reversal of any previous impairment charge made in the period, unless already adjusted for under (C) above; and

(F) including interest and dividend income of the Group,

all as determined by reference to the most recent consolidated financial statements of the Parent delivered pursuant to Clause 16.2 (*Financial information*) or other relevant information, where applicable.

"Interest Payable" means, in respect of any Ratio Period, all interest, discount and acceptance commission, commitment fees and all other continuing, regular or periodic costs, charges and expenses in the nature of interest (whether paid, payable or capitalised) or treated for accounting purposes as interest, incurred by the Group and net of guarantee fees paid to any member of the Group by lenders as represented by the Interest Payable account line of the notes to the published accounts.

"Ratio Period" means each twelve month period ending on the date to which the latest annual or interim semi-annual consolidated financial statements of the Group were prepared: the first such date shall be 30 June 2017.

17.1.2 All amounts defined by the terms used in Clause 17.1.1 above are to be calculated in accordance with EU-endorsed IFRS, where applicable and as applied to each set of audited annual consolidated financial statements of the Group delivered under Clause 16.2 (*Financial information*). For the purposes of Clause 17.1.1 above, amounts in currencies other than Sterling shall be translated into Sterling at the rates used in the latest audited annual consolidated financial statements of the Group.

17.1.3 If there is a dispute as to any interpretation of or computation for this Clause 17, the interpretation or computation of the auditors for the time being of the Parent will prevail.

17.2 **Interest Cover Ratio**

The Parent shall procure that for each Ratio Period the ratio of EBITDA to Interest Payable shall not be less than 4.5:1.

18. DEFAULT

18.1 Events of Default

Each of the events set out in Clauses 18.2 (*Non-payment*) to Clause 18.13 (*Guarantee*) is an Event of Default (whether or not caused by any reason whatsoever outside the control of any Obligor or any other person).

18.2 Non-payment

An Obligor does not pay, within five Business Days of the due date, any amount payable by it under the Finance Documents at the place at and in the currency in which it is expressed to be payable.

18.3 Breach of other obligations

18.3.1 An Obligor does not comply with Clause 17 (*Financial Covenant*).

18.3.2 An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 18.3.1 above or in Clause 18.2 (*Non-payment*)) and such failure (if capable of remedy before the expiry of such period) continues un-remedied for a period of 30 days from the earlier of the date on which (i) an Obligor becomes aware of the failure to comply or (ii) the Agent gives notice to the Parent requiring the same to be remedied.

18.4 Misrepresentation

A representation, warranty or statement made or deemed to be repeated by any Obligor in any Finance Document or in any document delivered by or on behalf of any Obligor under or in connection with any Finance Document is incorrect in any respect which is material in the context of this Agreement when made or deemed to be made or repeated.

18.5 Cross-default

Any other Borrowed Moneys Indebtedness of an Obligor becomes due and repayable by reason of an event of default (howsoever described) prior to its stated date of payment or any other Borrowed Moneys Indebtedness of an Obligor is not paid within the longer of seven days of its due date or any applicable grace period therefor (and for such purpose there shall be deemed to be a grace period of not less than seven days in respect of any obligation under any guarantee or indemnity or otherwise as surety), provided that no such event shall constitute an Event of Default unless the Borrowed Moneys Indebtedness either:

18.5.1 in any particular case amounts to at least £50,000,000 or the equivalent thereof in any other currency; or

18.5.2 when aggregated with other Borrowed Moneys Indebtedness then so due and repayable or not so paid amounts to at least £200,000,000 or the equivalent thereof in any other currency.

18.6 Insolvency

18.6.1 An Obligor is, or is deemed for the purposes of any law to be unable to pay its debts as they fall due or to be insolvent (except by reason of the failure to pay individual liability not exceeding US$10,000,000 or its equivalent in any other currency), or admits inability to pay its debts as they fall due; or

18.6.2 an Obligor suspends making payments on all or any class of its debt or announces an intention to do so, or a moratorium (other than a general governmental moratorium affecting foreign currency or exchange controls) is declared in respect of any of its indebtedness; or

18.6.3 an Obligor, by reason of financial difficulties, begins negotiations with its creditors generally or any class of them with a view to the readjustment or rescheduling of any of its indebtedness.

18.7 **Insolvency proceedings**

18.7.1 Any formal voluntary step commencing legal proceedings (including petition or convening a meeting) is taken by an Obligor (other than a US Debtor) with a view to a composition, assignment or arrangement with any class of creditors of an Obligor (other than a US Debtor); or

18.7.2 a meeting of an Obligor (other than a US Debtor) is convened by its directors or secretary for the purpose of considering any resolution for (or to petition for) its winding-up or for its administration or any such resolution is passed; or

18.7.3 any person presents a petition for the winding-up or for the administration of an Obligor (other than a US Debtor) and the petition is not discharged or stayed within 21 days; or

18.7.4 an order for the winding up or administration of an Obligor (other than a US Debtor) is made.

18.8 **Appointment of receivers and managers**

18.8.1 Any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or the like is appointed in respect of an Obligor (other than a US Debtor) or all or substantially all of its assets and, only in the case of the appointment of a judicial custodian, compulsory manager or receiver, is not discharged within 21 days; or

18.8.2 the directors of an Obligor (other than a US Debtor) request the appointment of a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or the like in respect of itself.

18.9 **Creditors' process**

Any attachment, sequestration, distress or execution affects any material asset of an Obligor and is not discharged within 21 days.

18.10 **Analogous proceedings**

There occurs, in relation to an Obligor any event anywhere which corresponds with any of those mentioned in Clauses 18.6 (*Insolvency*) to 18.9 (*Creditors' process*) (both inclusive).

18.11 **US Bankruptcy Law**

Any of the following occurs in respect of a US Debtor:

18.11.1 it makes a general assignment for the benefit of creditors;

18.11.2 it commences a voluntary case or proceeding under any US Bankruptcy Law; or

18.11.3 an involuntary case under any US Bankruptcy Law is commenced against it and is not dismissed or stayed within 60 days after commencement of the case.

18.12 **Unlawfulness**

It is or becomes unlawful for any Obligor to perform any of its payment or other material obligations under the Finance Documents.

18.13 **Guarantee**

The guarantee of the Guarantor under Clause 14 (*Guarantee*) is not effective or is alleged by an Obligor to be ineffective for any reason (other than by reason of written release or waiver by the Finance Parties).

18.14 **Employee Plans**

Any ERISA Event shall have occurred that, when aggregated with all other ERISA Events, would have or would be reasonably expected to result in a material adverse effect on the ability of the Obligors (taken as a whole) to perform their obligations under the Finance Documents.

18.15 **Exceptions**

Nothing in Clauses 18.7 (*Insolvency proceedings*), 18.8 (*Appointment of receivers and managers*) or 18.10 (*Analogous proceedings*) applies to any reconstruction, amalgamation or other transfer of any part of any Obligor's business and/or assets to or with another Obligor.

18.16 **Acceleration**

18.16.1 If an Event of Default described in Clause 18.11(*US Bankruptcy Law*) occurs, the Total Commitments will, if not already cancelled under this Agreement, be immediately and automatically cancelled and all amounts outstanding under the Finance Documents will be immediately and automatically due and payable, without the requirement of notice or any other formality.

18.16.2 On and at any time after the occurrence of an Event of Default and while such event is continuing the Agent may, and shall if so directed by the Majority Banks, by notice to the Parent, declare that an Event of Default has occurred and:

(A) to the extent not already cancelled under Clause 18.16.1, cancel the Total Commitments; and/or

(B) to the extent not already due and payable pursuant to Clause 18.16.1, demand that all the Advances, together with accrued interest, and all other amounts accrued under this Agreement be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(C) demand that all the Advances be payable on demand, whereupon they shall immediately become payable on demand.

19. **THE ADMINISTRATIVE PARTIES**

19.1 **Appointment and duties of the Administrative Parties**

Each Finance Party (other than the Agent) irrevocably appoints (i) the Agent to act as its agent under and in connection with the Finance Documents; and (ii) appoints the US Agent to act as its agent under and in connection with the Finance Documents and each Finance Party irrevocably authorises the Agent or, as the case may be, the US Agent on its behalf to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to it under or in connection with the Finance Documents, together with any other incidental rights, powers and discretions. The Administrative Parties shall have only those duties which are expressly specified in this Agreement (and no duties, responsibilities or obligations shall be implied). Those duties are solely of a mechanical and administrative nature.

19.2 **Relationship**

The relationship between each Administrative Party and the other Finance Parties is that of agent and principal only. Nothing in this Agreement constitutes any Administrative Party as trustee or fiduciary for any other Party or any other person and no Administrative Party needs to hold in trust any moneys paid to it for a Party or be liable to account for interest on those moneys.

19.3 **Majority Banks' directions**

Each Administrative Party will be fully protected if it acts in accordance with the instructions of the Majority Banks in connection with the exercise of any right, power or discretion or any matter not expressly provided for in the Finance Documents. Any such instructions given by the Majority Banks will be binding on all the Banks. In the absence of such instructions, an Administrative Party may act or refuse to act as it considers to be in the best interests of all the Banks. No Administrative Party shall be liable to any Bank for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Banks. An Administrative Party may refrain from acting in accordance with any instructions of any Bank or group of Banks until it has received any indemnification and/or security from such Bank or group of Banks that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.

19.4 **Delegation**

Each Administrative Party may act under the Finance Documents through its personnel and agents.

19.5 **Responsibility for documentation**

No Administrative Party is responsible to any other Party for:

19.5.1 the execution, genuineness, validity, enforceability or sufficiency of any Finance Document or any other document;

19.5.2 the collectability of amounts payable under any Finance Document; or

19.5.3 the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document.

19.6 **Default**

19.6.1 No Administrative Party is obliged to monitor or enquire as to whether or not a Default has occurred. No Administrative Party will be deemed to have knowledge of the occurrence of a Default. However, if an Administrative Party receives notice from a Party referring to this Agreement, describing the Default and stating that the event is a Default, it shall promptly notify the Banks.

19.6.2 Any Administrative Party may require the receipt of security satisfactory to it from the Banks whether by way of payment in advance or otherwise, against any liability or loss which it will or may incur in taking any proceedings or action arising out of or in connection with any Finance Document before it commences these proceedings or takes that action.

19.7 **Exoneration**

19.7.1 Without limiting Clause 19.7.2 below, no Administrative Party will be liable to any other Party for any action taken or not taken by it under or in connection with any Finance Document, unless directly caused by its negligence or wilful misconduct.

19.7.2 No Party may take any proceedings against any officer, employee or agent of any Administrative Party in respect of any claim it might have against that Administrative Party in respect of any act or omission of any kind (including negligence or wilful misconduct) by that officer, employee or agent in relation to any Finance Document.

19.7.3 No Administrative Party will be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:

(A) any act, event or circumstance not reasonably within its control; or

(B) the general risks of investment in, or the holding of assets in, any jurisdiction,

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

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

19.8 **Reliance**

Each Administrative Party may:

19.8.1 rely on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;

19.8.2 rely on any statement made by a director or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify; and

19.8.3 engage, pay for and rely on legal or other professional advisers selected by it (including those in that Administrative Party's employment and those representing a Party other than that Administrative Party).

19.9 **Credit approval and appraisal**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Bank confirms that it:

19.9.1 has made its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by any Administrative Party in connection with any Finance Document; and

19.9.2 will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities while any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

19.10 **Information**

19.10.1 Each Administrative Party shall promptly forward to the person concerned the original or a copy of any document which is delivered to that Administrative Party by a Party for that person.

19.10.2 The Agent shall promptly supply a Bank with a copy of each document received by the Agent under Clauses 4 (*Conditions Precedent*) or 26.6 (*Additional Borrowers*) upon the request and at the expense of that Bank.

19.10.3 Except where this Agreement specifically provides otherwise, no Administrative Party is obliged to review or check the accuracy or completeness of any document it forwards to another Party.

19.10.4 Except as provided above, no Administrative Party has any duty:

(A) either initially or on a continuing basis to provide any Bank with any credit or other information concerning the financial condition or affairs of any Obligor or any related entity of any Obligor whether coming into its possession or that of any of its related entities before, on or after the Signing Date; or

(B) unless specifically requested to do so by a Bank in accordance with this Agreement, to request any certificates or other documents from any Obligor.

19.10.5 An Administrative Party may disclose the identity of a Defaulting Bank to the other Finance Parties and the Parent and shall disclose the same upon the written request of the Parent, a Borrower or the Majority Banks.

19.11 **The Administrative Parties individually**

19.11.1 If it is also a Bank, each Administrative Party has the same rights and powers under this Agreement as any other Bank and may exercise those rights and powers as though it were not an Administrative Party.

19.11.2 Each Administrative Party may:

(A) carry on any business with an Obligor or its related entities;

(B) act as agent or trustee for, or in relation to any financing involving, an Obligor or its related entities; and

(C) retain any profits or remuneration in connection with its activities under this Agreement or in relation to any of the foregoing.

19.12 **Indemnities**

19.12.1 Without limiting the liability of any Obligor under the Finance Documents, each Bank shall forthwith on demand indemnify each Administrative Party for its proportion of any cost, liability or loss incurred by that Administrative Party in any way relating to or arising out of its acting as an Administrative Party, except to the extent that the liability or loss arises directly from that Administrative Party's negligence or wilful misconduct.

19.12.2 A Bank's proportion of the liability or loss set out in Clause 19.12.1 above is the proportion which the Original US Dollar Amount of its Advance(s) bears to the Original US Dollar Amount of all Advances outstanding on the date of the demand. If, however, no Advances are outstanding on the date of demand, then the proportion will be the proportion which its Commitment bears to the Total Commitments at the date of demand or, if the Total Commitments have been cancelled, bore to the Total Commitments immediately before being cancelled.

19.12.3 The Parent shall forthwith on demand reimburse each Bank for any payment made by it under Clause 19.12.1 above except to the extent it arises out of the Bank's negligence or default.

19.13 **Compliance**

19.13.1 An Administrative Party may refrain from doing anything which might, in its opinion, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person, and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation of any jurisdiction.

19.13.2 Without limiting Clause 19.13.1 above, an Administrative Party need not disclose any information relating to any Obligor or any of its related entities if the disclosure might, in the opinion of that Administrative Party constitute a breach of any law or regulation or any duty of secrecy or confidentiality or be otherwise actionable at the suit of any person.

19.14 **Deduction from amounts payable by the Agent or the US Agent**

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

19.15 **Money held as banker**

Each of the Agent and the US Agent shall be entitled to deal with money paid to it by any person for the purposes of this Agreement in the same manner as other money paid to a banker by its customers except that it shall not be liable to account to any person for any interest or other amounts in respect of the money.

19.16 **Resignation of an Administrative Party**

19.16.1 Notwithstanding its irrevocable appointment an Administrative Party may resign by giving notice to the Banks and the Parent, in which case the Parent may (following consultation with the Banks) forthwith appoint a successor Administrative Party (which shall be a Bank or an Affiliate of a Bank) or, failing that, the retiring Administrative Party shall forthwith appoint its successor or, failing that, the Majority Banks shall appoint the successor Administrative Party.

19.16.2 The resignation of the retiring Administrative Party and the appointment of any successor Administrative Party will both become effective only upon the successor Administrative Party notifying all the Parties that it accepts the appointment. On giving the notification and receiving such approval, the successor Administrative Party will succeed to the position of the retiring Administrative Party and the term "Agent" or "US Agent" will mean the successor Agent or successor US Agent (as applicable).

19.16.3 The retiring Administrative Party shall, at its own cost, make available to its successor such documents and records and provide such assistance as the relevant successor Administrative Party may reasonably request for the purposes of performing its functions as the relevant Administrative Party under this Agreement.

19.16.4 Upon its resignation becoming effective, this Clause 19 shall continue to benefit the relevant retiring Administrative Party in respect of any action taken or not taken by it under or in connection with the Finance Documents while it was the Administrative Party and, subject to Clause 19.16.3 above, it shall have no further obligation under any Finance Document.

19.16.5 Notwithstanding the irrevocable appointment of an Administrative Party, after consultation with the Parent, the Majority Banks may, by notice to that Administrative Party require it to resign in accordance with Clause 19.16.1 above. In this event, such Administrative Party shall resign in accordance with Clause 19.16.1 above.

19.16.6 An Administrative Party shall resign in accordance with Clause 19.16.1 above if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to that Administrative Party under the Finance Documents:

(A) that Administrative Party fails to respond to a request under Clause 10.6 *(FATCA*) and an Obligor or a Bank reasonably believes that that Administrative Party will not be (or will have ceased to be) FATCA Exempt (as defined in Clause 10.6 (*FATCA*)) on or after that FATCA Application Date;

(B) the information supplied by that Administrative Party pursuant to Clause 10.6 (*FATCA*) indicates that that Administrative Party will not be (or will have ceased to be) FATCA Exempt on or after that FATCA Application Date; or

(C) that Administrative Party notifies an Obligor and the Banks that that Administrative Party will not be (or will have ceased to be) FATCA Exempt on or after that FATCA Application Date,

and (in each case) an Obligor or a Bank reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if such Administrative Party were FATCA Exempt, and the Obligor or a Bank, by notice to that Administrative Party, requires it to resign.

19.16.7 If an Administrative Party resigns pursuant to Clause 19.16.6 above:

(A) its successor shall be appointed in accordance with Clause 19.16.1 above; and

(B) such resignation shall only become effective when the successor Administrative Party notifies all the Parties that it accepts such appointment.

19.17 **Replacement of an Administrative Party**

19.17.1 After consultation with the Parent, the Majority Banks may, by giving 30 days' written notice to the relevant Administrative Party (or, at any time the relevant Administrative Party is an Impaired Agent, by giving any shorter notice determined by the Majority Banks) replace that Administrative Party by appointing a successor Administrative Party.

19.17.2 The retiring Administrative Party shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Banks) make available to the successor Administrative Party such documents and records and provide such assistance as the successor Administrative Party may reasonably request for the purposes of performing its functions as agent under the Finance Documents.

19.17.3 The appointment of the successor Administrative Party shall take effect on the date specified in the notice from the Majority Banks to the retiring Administrative Party. As from this date, the retiring Administrative Party shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 19 (and any agency fees for the account of the retiring Administrative Party shall cease to accrue from (and shall be payable on) that date).

19.17.4 Any successor Administrative Party and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

19.18 **Banks**

Each Administrative Party may treat each Bank as a Bank, entitled to payments under this Agreement and as acting through its Facility Office(s) until it has received notice from the Bank to the contrary by not less than five Business Days prior to the relevant payment.

19.19 **Regulatory Position**

The Agent is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Nothing in this Agreement shall require the Agent to carry on an activity of the kind specified by any provision of Part II (other than article 5 (accepting deposits)) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or to lend money to any Borrower in its capacity as Agent.

19.20 **Chinese Wall**

In acting as an Administrative Party, the agency and syndications division of each Administrative Party shall be treated as a separate entity from its other divisions and departments. Any information acquired at any time by an Administrative Party otherwise than in the capacity of an Administrative Party through its agency and syndications division (whether as financial advisor to any member of the Group or otherwise) may be treated as confidential by that Administrative Party and shall not be deemed to be information possessed by that Administrative Party in their capacity as such. Each Finance Party acknowledges that that Administrative Party may, now or in the future, be in possession of, or provided with, information relating to the Obligors which has not or will not be provided to the other Finance Parties. Each Finance Party agrees that, except as expressly provided in this Agreement no Administrative Party will be under any obligation to provide, or under any liability for failure to provide, any such information.

20. **FEES**

20.1 **Commitment fee**

20.1.1 The Borrowers shall pay to the US Agent for distribution to each Bank pro rata to the proportion its Commitment bears to the Total Commitments from time to time a commitment fee at the applicable Commitment Fee Rate on the undrawn, uncancelled amount of the Total Commitments for the Availability Period.

20.1.2 The commitment fee is calculated and accrues from the Signing Date on a daily basis and is payable quarterly in arrear during the Availability Period, with the first payment due three months after the Signing Date for the period from the Signing Date and on the last day of the Availability Period. Accrued commitment fee is also payable to the US Agent for the relevant Bank(s) on the cancelled amount of its Commitment at the time the cancellation takes effect.

20.1.3 No commitment fee is payable to the US Agent (for the account of a Bank) on any Available Commitment of a Bank on any day on which such Bank is a Bank in relation to which (i) any of the events or circumstances referred to in paragraph (a), (b) or (c) of the definition of "Defaulting Bank" has occurred and (ii) in so far as such event or circumstance relates to paragraph (c) of the definition of "Defaulting Bank", a notice of cancellation has been despatched by the Parent to the Agent under Clause 7.7 (*Right of cancellation in relation to a Defaulting Bank*) (such Bank being a **"Disenfranchised Bank"**).

20.1.4 In this Clause 20.1, **"Commitment Fee Rate"** means:

(A) from and including the Signing Date to and excluding the date falling one month after the Signing Date, 5 per cent. of the applicable Margin;

(B) from and including the date falling one month after the Signing Date to and excluding the date falling two months after the Signing Date, 10 per cent. of the applicable Margin;

(C) from and including the date falling two months after the Signing Date to and excluding the date falling three months after the Signing Date, 20 per cent. of the applicable Margin;

(D) thereafter, 30 per cent. of the applicable Margin.

20.1.5 For the purpose of calculating the commitment fee, the applicable Margin will be determined on the basis of a deemed Corporate Credit Rating of BBB and a deemed Issuer Rating of Baa2.

20.2 **Administrative Party fees**

20.2.1 The Parent shall, on behalf of the Borrowers, pay to each Administrative Party for its own account agency fees in the amounts and on the dates agreed in the relevant Fee Letter.

20.2.2 The fees, commissions and expenses payable to an Administrative Party for services rendered and the performance of its obligations under this Agreement shall not be abated by any remuneration or other amounts or profits receivable by that Administrative Party (or by any of its associates) in connection with any transaction effected by that Administrative Party with or for the Banks or the Parent.

20.3 **Up-front fee**

The Borrowers shall pay to the Banks an up-front fee in the amounts and on the dates agreed in the relevant Fee Letter.

20.4 **Extension fee**

Subject to the exercise of the relevant extension option in respect of Facility A or Facility B pursuant to Clause 2.4 (*Extension Option*), the Borrowers shall pay to the Banks an extension fee in the amounts and on the dates agreed in the relevant Fee Letter.

20.5 **Duration fee**

The Borrowers shall pay to the Banks a duration fee in the amounts and on the dates agreed in the relevant Fee Letter.

20.6 **VAT**

Any fee referred to in this Clause 20 is exclusive of any United Kingdom value added tax. If any value added tax is so chargeable, it shall be paid by the Borrowers at the same time as it pays the relevant fee.

21. **EXPENSES**

21.1 **Initial and special costs**

The Parent shall forthwith on demand pay the Administrative Parties the amount of all out-of-pocket costs and expenses (including but not limited to legal fees) reasonably incurred by any of them in connection with:

21.1.1 the negotiation, preparation, printing and execution of:

(A) this Agreement and any other documents referred to in this Agreement, and

(B) any other Finance Document (other than a Novation Certificate) executed after the Signing Date;

21.1.2 any amendment waiver, consent or suspension of rights (or any proposal for any of the foregoing) requested by or on behalf of an Obligor and relating to a Finance Document or a document referred to in any Finance Document; and

21.1.3 any other matter, not of an ordinary administrative nature, arising out of or in connection with a Finance Document.

21.2 **Enforcement costs**

The Parent shall forthwith on demand pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by it:

21.2.1 in connection with the enforcement of, or the preservation of any rights under, any Finance Document; or

21.2.2 in investigating any possible Default of which an Obligor or the Majority Banks have given notice.

22. STAMP DUTIES

The Parent shall pay and forthwith on demand indemnify each Finance Party against any liability it incurs in respect of any stamp, registration or similar tax which is or becomes payable in connection with the entry into, performance or enforcement of any Finance Document other than a Novation Certificate or any document signed or otherwise entered into pursuant to Clauses 26.2 (*Transfers by Banks*), 26.3 (*Procedure for novations*) and Clause 26.10 (*Affiliates of Banks*).

23. INDEMNITIES

23.1 Currency indemnity

23.1.1 If a Finance Party receives an amount in respect of an Obligor's liability under the Finance Documents or if that liability is converted into a claim, proof, judgment or order in a currency other than the currency (the **"contractual currency"**) in which the amount is expressed to be payable under the relevant Finance Document:

(A) that Obligor shall indemnify that Finance Party as an independent obligation against any loss or liability arising out of or as a result of the conversion;

(B) if the amount received by that Finance Party, when converted into the contractual currency at a market rate in the usual course of its business, is less than the amount owed in the contractual currency, the Obligor concerned shall forthwith on demand pay to that Finance Party an amount in the contractual currency equal to the deficit; and

(C) the Obligor shall pay to the Finance Party concerned on demand any exchange costs and taxes payable in connection with any such conversion.

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

23.2 Other indemnities

23.2.1 The Parent shall forthwith on demand indemnify each Finance Party against any loss or liability which that Finance Party incurs as a consequence of:

(A) the occurrence of any Event of Default;

(B) the operation of Clause 18.16 (*Acceleration*) or Clause 29 (*Pro Rata Sharing*);

(C) any payment of principal or an overdue amount being received from any source otherwise than on a Term End Date (and, for the purposes of this paragraph (C), the Term End Date of an overdue amount is the last day of each Designated Term (as defined in Clause 8.4 (*Default interest*)));

(D) the occurrence of a change described in, and the operation of Clause 11.4 (*Change in circumstances*) in relation to, an Optional Currency; or

(E) (other than by reason of negligence or default by a Finance Party) an Advance not being disbursed after a Borrower has delivered a Request for that Advance.

The Parent's liability in each case includes any loss or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Finance Document, any amount repaid or prepaid or any Advance.

23.2.2 The Parent shall promptly indemnify each Finance Party, each Arranger and their respective officers or employees against any cost, loss, liability or reasonable expense directly incurred by that Finance Party or Arranger (or its officers or employees) in connection with or arising out of the Acquisition or the funding of the Acquisition (including but not limited to those incurred in connection with any litigation, arbitration or administrative proceedings or regulatory enquiry concerning the Acquisition), unless such loss or liability is caused by the fraud, negligence or wilful misconduct of that Finance Party or Arranger (or its employees or officers). Any officer or employee of a Finance Party and an Arranger may rely on this Clause 23.2.2.

23.3 **Indemnity**

The Parent shall forthwith on demand by an Administrative Party indemnify the Agent or, as the case may be, the US Agent against any actual costs, loss or liability incurred by the Agent or, as the case may be, the US Agent (acting reasonably) as a direct result of the Agent, or as the case may be, the US Agent acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

24. EVIDENCE AND CALCULATIONS

24.1 **Accounts**

Accounts maintained by a Finance Party in connection with this Agreement are prima facie evidence of the matters to which they relate.

24.2 **Certificates and determinations**

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

24.3 **Calculations**

Interest and the fee payable under Clause 20.1 (*Commitment fee*) accrue from day to day and are calculated on the basis of the actual number of days elapsed and a year of 360 days or any interest payable on an amount denominated in Sterling, 365 days (or such other day count convention as shall be consistent with the then generally accepted practice in the London interbank market).

25. AMENDMENTS AND WAIVERS

25.1 **Procedure**

25.1.1 Subject to Clause 25.2 (*Exceptions*), any term of the Finance Documents may be amended or waived with the agreement of the Parent and the Agent (acting on the instructions of the Majority Banks). The Agent may effect, on behalf of the Banks, any amendment or waiver permitted by this Clause 25.1.1.

25.1.2 The Agent shall promptly notify the other Parties of any amendment or waiver effected under Clause 25.1.1 above, and any such amendment or waiver shall be binding on all the Parties.

25.2 **Exceptions**

25.2.1 An amendment or waiver which relates to:

(A) the definition of "Majority Banks" in Clause 1.1 (*Definitions*);

(B) an extension of the date for, or a decrease in an amount or a change in the currency of, any payment under the Finance Documents;

(C) an increase in a Bank's Commitment;

(D) a change in the guarantee under Clause 14 (*Guarantee*);

(E) a term of a Finance Document which expressly requires the consent of each Bank; or

(F) Clause 29 (*Pro Rata Sharing*) or this Clause 25 (*Amendments and Waivers*),

may not be effected without the consent of each Bank.

25.2.2 An amendment or waiver which relates to the rights or obligations of an Administrative Party (in its capacity as such) may not be effected without the consent of that Administrative Party.

25.3 **Waivers and remedies cumulative**

The rights of each Party under the Finance Documents:

25.3.1 may be exercised as often as necessary;

25.3.2 are cumulative and not exclusive of its rights under the general law; and

25.3.3 may be waived only in writing and specifically.

Delay in exercising or non-exercise of any such right is not a waiver of that right.

26. **CHANGES TO THE PARTIES**

26.1 **Transfers by Obligors**

No Obligor may assign, transfer, novate or dispose of any of, or any interest in, its rights and/or obligations under this Agreement, except in the manner contemplated in Clause 7.6 (*Changes to Borrowers)*.

26.2 **Transfers by Banks**

26.2.1 A Bank (the **"Existing Bank"**) may at any time assign, transfer, novate or sub-participate any of its rights and/or obligations under this Agreement to another person (the **"New Bank"**) provided that:

(A) the Parent shall have given its prior written consent to such assignment, transfer, novation or sub-participation (such consent not to be unreasonably withheld or delayed, having regard (without limitation) to the relative credit rating of the New Bank and the other Banks), except that such consent shall not be required if an Event of Default is outstanding or where the New Bank is an Existing Bank or is an Affiliate of the Existing Bank or any other Bank; and

(B) in the case of a partial assignment, transfer or novation of rights and/or obligations, a minimum amount of US$5,000,000 (unless to an Affiliate of the Existing Bank or the Agent agrees otherwise) must be assigned, transferred or novated.

26.2.2 A transfer of obligations will be effective only if either:

(A) the obligations are novated in accordance with Clause 26.3 (*Procedure for novations*); or

(B) the New Bank confirms to the Agent and the Parent that it undertakes to be bound by the terms of this Agreement as a Bank in form and substance satisfactory to the Agent and the Parent. On the transfer

becoming effective in this manner the Existing Bank shall be relieved of its obligations under this Agreement to the extent that they are transferred to the New Bank.

26.2.3 On each occasion an Existing Bank assigns, transfers or novates any of its rights and/or obligations under this Agreement (other than to an Affiliate), the New Bank shall, on the date the assignment, transfer and/or novation takes effect, pay to the Agent for its own account a fee of £2,500.

26.2.4 An Existing Bank is not responsible to a New Bank for:

(A) the execution, genuineness, validity, enforceability or sufficiency of any Finance Document or any other document;

(B) the collectability of amounts payable under any Finance Document; or

(C) the accuracy of any statements (whether written or oral) made in connection with any Finance Document.

26.2.5 Each New Bank confirms to the Existing Bank and the other Finance Parties that it:

(A) has made its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Bank in connection with any Finance Document; and

(B) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities while any amount is or may be outstanding under this Agreement or any Commitment is in force.

26.2.6 Nothing in any Finance Document obliges an Existing Bank to:

(A) accept a re-transfer from a New Bank of any of the rights and/or obligations assigned, transferred or novated under this Clause 26.2; or

(B) support any losses incurred by the New Bank by reason of the non-performance by any Obligor of its obligations under this Agreement or otherwise.

26.2.7 Any reference in this Agreement to a Bank includes a New Bank but excludes a Bank if no amount is or may be owed to or by it under this Agreement and its Commitment has been cancelled or reduced to nil.

26.3 **Procedure for novations**

26.3.1 A novation is effected if:

(A) the Existing Bank and the New Bank deliver to the Agent a duly completed certificate (a **"Novation Certificate"**), substantially in the form of Part I of Schedule 4 (*Forms of Accession Documents*), with such amendments as the Agent approves to achieve a substantially similar effect (which may be delivered by fax and confirmed by delivery of a hard copy original but the fax will be effective irrespective of whether confirmation is received); and

(B) the Agent (except if the novation is to an Existing Bank or an Affiliate of the Existing Bank or any other Bank) executes it. The Agent shall only be obliged to execute a Novation Certificate delivered to it by the Existing Bank and the New Bank once it is satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the transfer to such New Bank.

26.3.2 Each Party (other than the Existing Bank, the New Bank and the Parent) irrevocably authorises the Agent to execute any duly completed Novation Certificate on its behalf.

26.3.3 To the extent that they are expressed to be the subject of the novation in the Novation Certificate:

(A) the Existing Bank and the other Parties (the **"Existing Parties"**) will be released from their obligations to each other (the **"discharged obligations"**);

(B) the New Bank and the Existing Parties will assume obligations towards each other which differ from the discharged obligations only insofar as they are owed to or assumed by the New Bank instead of the Existing Bank;

(C) the rights of the Existing Bank against the Existing Parties and vice versa (the **"discharged rights"**) will be cancelled; and

(D) the New Bank and the Existing Parties will acquire rights against each other which differ from the discharged rights only insofar as they are exercisable by or against the New Bank instead of the Existing Bank,

all on the date of execution of the Novation Certificate by the Agent, the Existing Party, the New Party and the Parent or, if later, the date specified in the Novation Certificate.

26.3.4 If the effective date of a novation (other than a novation by an Existing Bank to an Affiliate) is after the date a Request is received by the Agent but before the date the requested Advance is disbursed to the relevant Borrower, the Existing Bank shall be obliged to participate in that Advance in respect of its discharged obligations notwithstanding that novation, and the New Bank shall reimburse the Existing Bank for its participation in that Advance and all interest and fees thereon up to the date of reimbursement (in each case to the extent attributable to the discharged obligations) within three Business Days of the Utilisation Date of that Advance.

26.4 **Security over Bank's Rights**

A Bank may, without consulting with or obtaining consent from any Obligor, at any time charge to, assign to, or otherwise create a Security Interest in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Bank to a federal reserve, central bank or any authorised government body, except that no such charge, assignment or Security Interest shall:

26.4.1 release a Bank from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security Interest for the Bank as party to any of the Finance Documents; or

26.4.2 affect the obligations of the Obligors under the Finance Documents or require any payments to be made by an Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Bank under the Finance Documents.

26.5 **Pro rata interest settlement**

26.5.1 If the Agent has notified the Banks that it is able to distribute interest payments on a "pro rata basis" to Existing Banks and New Banks then (in respect of any transfer pursuant to Clause 26.2 (*Transfers by Banks*) or a novation pursuant to Clause 26.3 (*Procedure for novations*) the date on which the transfer or novation effective (the **"Transfer Date"**) of which, in each case, is after the date of such notification and is not on a Term End Date):

(A) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Bank up to but excluding the Transfer Date (**"Accrued Amounts"**) and shall become due and payable to the Existing Bank (without further interest accruing on them) on the Term End Date of the current Term (or, if the Term is longer than six months, on the next of the dates which falls at six monthly intervals after the first day of that Term); and

(B) the rights assigned or transferred by the Existing Bank will not include the right to the Accrued Amounts so that, for the avoidance of doubt:

(1) when the Accrued Amounts become payable, those Accrued Amounts will be payable for the account of the Existing Bank; and

(2) the amount payable to the New Bank on that date will be the amount which would, but for the application of this Clause 26.5, have been payable to it on that date, but after deduction of the Accrued Amounts.

26.5.2 In this Clause 26.5, references to "Term" shall be construed to include a reference to any other period for accrual of fees.

26.6 **Additional Borrowers**

26.6.1 If the Parent wishes one of its wholly-owned Subsidiaries to become an Additional Borrower, then it may (if each of the Finance Parties have approved the identity of the Additional Borrower in writing) deliver to the Agent the documents listed in Part II of Schedule 2 (*Conditions Precedent Documents*).

26.6.2 On delivery of a Borrower Accession Agreement, executed by the relevant Subsidiary and the Parent, the Subsidiary concerned will become an Additional Borrower. However, it may not submit a Request until the Agent confirms to the other Finance Parties and the Parent that it has received all the documents referred to in Clause 26.6.1 above in form and substance satisfactory to it.

26.6.3 Delivery of a Borrower Accession Agreement, executed by the relevant Subsidiary and the Parent, constitutes confirmation by that Subsidiary that the representations and warranties set out in Clause 15 (*Representations and Warranties*), except for Clause 15.8 (*Litigation*), Clause 15.9 (*Material adverse change*), Clause 15.10 (*Accounts*) and Clause 15.11 (*Sanctions*)), deemed to be made by it on the date of the Borrower Accession Agreement are correct, as if made with reference to the facts and circumstances then existing.

26.7 **Bank Retirement**

26.7.1 Without prejudice to Clause 26.13 (*Replacement of a Defaulting Bank*), the Parent may, at any time whilst an Event of Default is not continuing, require a Bank to retire from the Facilities by giving at least ten Business Days' notice to the Administrative Parties and the relevant Bank.

26.7.2 If the Parent has given its prior written consent to such retirement (which consent may be withheld in the Parent's absolute discretion), a Bank may retire from the Facilities by giving at least ten Business Days' notice to the Administrative Parties and the Parent.

26.7.3 On expiry of a notice (a **"Retirement Notice"**) given pursuant to Clause 26.7.1 or 26.7.2 then, at the Parent's option:

(A)

(1) the Commitment of the relevant Bank shall be automatically cancelled;

(2) each Borrower shall repay any Advances made to it by the relevant Bank together with all accrued interest on the amount repaid, all accrued commitment fees on the cancelled Commitment, and any other amounts payable by it to that Bank under this Agreement (including under Clause 23.2.1(C) (*Other indemnities*)); and

(3) (upon payment of the amounts referred to in sub-paragraph (2) above) the relevant Bank shall cease to be a Party to this Agreement and shall cease to have any rights or obligations hereunder (other than in respect of any amounts referred to in sub-paragraph (2) subsequently required by a court of competent jurisdiction to be repaid by the relevant Bank to any person); or

(B) the relevant Bank shall novate to another bank or financial institution selected by the Parent its Commitment and the Advances made by it in accordance with Clause 26.3 (*Procedure for novations*).

26.7.4 Any Retirement Notice is irrevocable once given.

26.8 **Reference Banks**

If a Reference Bank (or, if a Reference Bank is not a Bank, the Bank of which it is an Affiliate) ceases to be a Bank, the Agent shall (in consultation with the Parent) appoint another Bank or an Affiliate of a Bank which is not a Reference Bank to replace that Reference Bank.

26.9 **Register**

The Agent, acting for this purpose as an agent of each Borrower, shall maintain at one of its offices a copy of each transfer effected pursuant to Clause 26.2 and a register for the recordation of the names and Facility Offices of the Banks, and the Commitment of, and principal amount (and stated interest) of the Advances owing to, each Bank pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, and the Borrowers, the US Agent, the Agent and the Banks shall treat each person whose name is recorded in the Register pursuant to the terms hereof as a lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers and any Bank, at any reasonable time and from time to time upon reasonable prior notice.

26.10 **Affiliates of Banks**

26.10.1 Each Bank may fulfil its obligations in respect of any Advance through an Affiliate if:

(A) the relevant Affiliate is specified in this Agreement as a Bank or becomes a Bank by means of a Novation Certificate in accordance with this Agreement; and

(B) the Advances in which that Affiliate will participate are specified in this Agreement or in a notice given by that Bank to the Agent and the Borrowers.

In this event, the Bank and the Affiliate will participate in Advances in the manner provided for in sub-paragraph (B) above.

26.10.2 If Clause 26.10.1 above applies, the Bank and its Affiliate will be treated as having a single Commitment and a single vote, but, for all other purposes, will be treated as separate Banks.

26.11 **Increase**

26.11.1 The Parent may by giving prior written notice to the Agent after the effective date of a cancellation of:

(A) the Available Commitments of a Defaulting Bank in accordance with Clause 7.7 (*Right of cancellation in relation to a Defaulting Bank*); or

(B) the Commitments of a Bank in accordance with Clause 13.1 (*Illegality*),

request that the Total Commitments be increased (and the Total Commitments shall be so increased) in an aggregate amount in US Dollars of up to the amount of the Available Commitments or Commitments so cancelled as follows:

(1) the increased Total Commitments will be assumed by one or more Banks or other banks or financial institutions (each an **"Increase Bank"**) selected by the Parent (each of which shall not be a member of the Group and which is acceptable to the Agent (acting reasonably)), and each of which confirms its willingness to assume and does assume all the obligations of a Bank corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Bank;

(2) each Obligor and any Increase Bank shall assume obligations towards one another and/or acquire rights against one another as that Obligor and the Increase Bank would have assumed and/or acquired had the Increase Bank been an Original Bank;

(3) each Increase Bank shall become a Party as a "Bank" and any Increase Bank and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Increase Bank and those Finance Parties would have assumed and/or acquired had the Increase Bank been an Original Bank; and

(4) the Commitments of the other Banks shall continue in full force and effect.

26.11.2 An increase in the Total Commitments will only be effective on:

(A) the execution by the Agent of an Increase Confirmation from the relevant Increase Bank;

(B) in relation to an Increase Bank which is not a Bank immediately prior to the relevant increase, the performance by the Agent of all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Bank, the completion of which the Agent shall promptly notify to the Parent and the Increase Bank; and

(C) any increase in the Total Commitments shall take effect on the date specified by the Parent in the notice referred to in Clause 26.11.1 above or any later date on which the conditions set out in this Clause 26.11.2 are satisfied.

26.11.3 Each Increase Bank, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the relevant Bank or Banks in accordance with this Agreement on or prior to the date on which the increase becomes effective.

26.11.4 Unless the Agent otherwise agrees or the increased Commitment is assumed by an Existing Bank, the Obligors shall, on the date upon which the increase takes effect, pay to the Agent (for its own account) a fee of £2,000 and the Obligors shall promptly on demand pay the Agent the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with any increase in Commitments under this Clause 26.11.

26.11.5 Clauses 26.2.4 to 26.2.6 (both inclusive), shall apply *mutatis mutandis* in this Clause 26.11 in relation to an Increase Bank as if references in that Clause to:

(A) an **"Existing Bank"** were references to all the Banks immediately prior to the relevant increase;

(B) the **"New Bank"** were references to that **"Increase Bank"**; and

(C) a **"re-transfer"** and **"re-assignment"** were references to respectively a **"transfer"** and **"assignment"**.

26.12 **Disenfranchisement of a Bank**

26.12.1 For so long as a Disenfranchised Bank (as such term is defined in Clause 20.1.3 (*Commitment fee*)) has any Available Commitment, in ascertaining the Majority Banks or whether any given percentage has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents, that Disenfranchised Bank's Commitments will be reduced by the amount of its Available Commitments.

26.12.2 For the purposes of this Clause 26.12, the Agent may assume that the following Banks are Disenfranchised Banks:

(A) any Bank which has notified the Agent that it has become a Disenfranchised Bank; and

(B) any Bank in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of "Defaulting Bank" has occurred and, in so far as such event or circumstance relates to paragraph (c) of the definition of "Defaulting Bank", it has received a notice of cancellation from the Parent in respect of that Bank pursuant to Clause 7.7 (*Right of cancellation in relation to a Defaulting Bank*),

unless it has received notice to the contrary from the Bank concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Bank has ceased to be a Disenfranchised Bank.

26.13 **Replacement of a Defaulting Bank**

26.13.1 Without prejudice to Clause 26.7 (*Bank Retirement*), the Parent may, at any time a Bank has become and continues to be a Defaulting Bank, by giving five Business Days' prior written notice to the Agent and such Bank:

(A) replace such Bank by requiring such Bank to (and such Bank shall) transfer pursuant to this Clause 26 (*Changes to the Parties*) all (and not part only) of its rights and obligations under this Agreement; or

(B) require such Bank to (and such Bank shall) transfer pursuant to this Clause 26 (*Changes to the Parties*) all (and not part only) of the undrawn Commitments of the Bank,

to a Bank or other bank or financial institution (a **"Replacement Bank"**) selected by the Parent, and which (unless the Agent is an Impaired Agent) is acceptable to the Agent (acting reasonably), which confirms its willingness to assume and does assume all the obligations or all the relevant obligations of the transferring Bank (including the assumption of the transferring Bank's participations or unfunded participations (as the case may be) on the same basis as the transferring Bank) for a purchase price in cash, payable at the time of transfer, equal to the outstanding principal amount of such Bank's participation in the outstanding Advances and all accrued but unpaid interest, any amounts payable under Clause 23.2 (*Other indemnities*) and any other amounts payable in relation thereto under the Finance Documents.

26.13.2 The Agent may in its absolute discretion (and is authorised by each Finance Party, but is not obliged by the Obligors, to) execute, without requiring any further consent or action from any other Party, a Novation Certificate on behalf of any Defaulting Bank which is required to transfer its rights and obligations under this Agreement pursuant to Clause 26.13 above which shall be effective for the purposes of Clause 26.3 (*Procedure for novations*). The Agent shall not be liable

in any way for any action taken by it pursuant to this Clause 26.13 and, for the avoidance of doubt, the provisions of Clause 19.7 (*Exoneration*) shall apply in relation thereto.

26.13.3 Any transfer of rights and obligations of a Defaulting Bank pursuant to this Clause 26.13 shall be subject to the following conditions:

(A) neither the Agent nor the Defaulting Bank shall have any obligation to the Obligors to find a Replacement Bank;

(B) the transfer must take place no later than seven days after the notice referred to in Clause 26.13.1 above; and

(C) in no event shall the Defaulting Bank be required to pay or surrender to the Replacement Bank any of the fees received by the Defaulting Bank pursuant to the Finance Documents.

26.13.4 For the avoidance of doubt, the rights of the Obligors under Clause 26.7 (*Bank Retirement*) and Clause 26.13 (*Replacement of a Defaulting Bank*) are without prejudice to each other and the rights under each Clause are capable of being exercised independently of each other by the Obligors.

27. DISCLOSURE OF INFORMATION AND KNOW YOUR CUSTOMER REQUIREMENTS

27.1 Disclosure of information

A Bank may disclose:

27.1.1 a copy of any Finance Document; and

27.1.2 any information which that Bank has acquired under or in connection with any Finance Document,

to:

27.1.3 any of its Affiliates and any of its or their officers, directors, employees, professional advisers and auditors to the extent necessary in connection with the Facilities;

27.1.4 any person with whom it is proposing to enter, or has entered into, any kind of transfer, novation, participation or other agreement in relation to this Agreement;

27.1.5 a federal reserve, central bank or any authorised government body to whom a Bank is charging to, assigning to or otherwise creating a Security Interest in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document under Clause 26.4 (*Security over Bank's Rights*); or

27.1.6 any person to whom it is required to disclose such information under any law or regulation or by any taxation or regulatory authority,

provided that a Bank shall not disclose any such information to a person under:

(a) Clause 27.1.3 above unless such person is informed of its confidential nature and that some or all of such information may be price-sensitive information and such person is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to such information; and

(b) Clause 27.1.4 above (other than one of its Affiliates) unless that person has provided to that Bank a confidentiality undertaking addressed to that Bank and the Parent substantially in the form of Schedule 5 (*Form of Confidentiality Undertaking*) or such other form as the Parent may approve.

27.2 Disclosure to numbering service providers

27.2.1 Any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification

numbering services in respect of this Agreement, the Facilities and/or one or more Obligors the following information:

(A) names of Obligors;

(B) country of domicile of Obligors;

(C) place of incorporation of Obligors;

(D) date of this Agreement;

(E) governing law of this Agreement;

(F) the names of the Agent, the US Agent and Arranger;

(G) date of each amendment and restatement of this Agreement;

(H) amounts of, and names of the Facilities (and any tranches);

(I) amount of Total Commitments;

(J) currencies of the Facilities;

(K) type of Facilities;

(L) ranking of Facilities;

(M) Final Maturity Date of the Facilities;

(N) changes to any of the information previously supplied pursuant to paragraphs (A) to (K) above; and

(O) such other information agreed between such Finance Party and the Parent,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

27.2.2 The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.

27.3 **Know your Customer requirements**

27.3.1 Each Obligor must promptly on the request of any Finance Party supply to that Finance Party any documentation or other evidence which is reasonably requested by that Finance Party (whether for itself, on behalf of any Finance Party or any prospective new Bank) to enable a Finance Party or prospective New Bank to carry out and be satisfied with the results of all applicable know your customer requirements.

27.3.2 Each Bank must promptly on the request of the Agent supply to the Agent any documentation or other evidence which is reasonably required by the Agent to carry out and be satisfied with the results of all applicable know your customer requirements.

28. **SET-OFF**

Whilst an Event of Default is continuing, a Finance Party may set off any matured obligation owed by an Obligor under this Agreement (to the extent beneficially owned by that Finance Party) against any obligation (whether or not matured) owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Finance Party may set off in an amount estimated by it in good faith to be the amount of that obligation.

29. PRO RATA SHARING

29.1 Redistribution

If any amount owing by an Obligor under this Agreement to a Finance Party (the **"recovering Finance Party"**) is discharged by payment, set-off or any other manner other than in accordance with Clause 9 (*Payments*) (a **"recovery"**), then:

29.1.1 the recovering Finance Party shall, within three Business Days, notify details of the recovery to the Agent;

29.1.2 the Agent shall determine whether the recovery is in excess of the amount which the recovering Finance Party would have received had the recovery been received and distributed in accordance with Clause 9 (*Payments*);

29.1.3 subject to Clause 29.3 (*Exception*), the recovering Finance Party shall, within three Business Days of demand by the Agent pay to the Agent an amount (the **"redistribution"**) equal to the excess;

29.1.4 the Agent shall treat the redistribution as if it were a payment by the Obligor concerned under Clause 9 (*Payments*) and shall pay the redistribution to the Finance Parties (other than the recovering Finance Party) in accordance with Clause 9.8 (*Partial payments*); and

29.1.5 after payment of the full redistribution, the recovering Finance Party will be subrogated to the portion of the claims paid under Clause 29.1.4 above, and that Obligor will owe the recovering Finance Party a debt which is equal to the redistribution, immediately payable and of the type originally discharged.

29.2 Reversal of redistribution

If under Clause 29.1 (*Redistribution*):

29.2.1 a recovering Finance Party must subsequently return a recovery, or an amount measured by reference to a recovery, to an Obligor; and

29.2.2 the recovering Finance Party has paid a redistribution in relation to that recovery,

each Finance Party shall, within three Business Days of demand by the recovering Finance Party through the Agent, reimburse the recovering Finance Party all or the appropriate portion of the redistribution paid to that Finance Party. Thereupon the subrogation in Clause 29.1.5 will operate in reverse to the extent of the reimbursement.

29.3 Exception

A recovering Finance Party need not pay a redistribution to the extent that it would not, after the payment, have a valid claim against the Obligor concerned in the amount of the redistribution pursuant to Clause 29.1.5.

30. SEVERABILITY

If a provision of any Finance Document is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:

30.1.1 the legality, validity or enforceability in that jurisdiction of any other provision of the Finance Documents; or

30.1.2 the legality, validity or enforceability in other jurisdictions of that or any other provision of the Finance Documents.

31. COUNTERPARTS

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

32. NOTICES

32.1 **Giving of notices**

All notices or other communications under or in connection with this Agreement shall be given in writing, by facsimile or, to the extent agreed by the Parties making and receiving communication, by email or other electronic communication. Any such notice will be deemed to be given as follows:

32.1.1 if in writing, when delivered;

32.1.2 if by facsimile, when received; and

32.1.3 if by email or any other electronic communication, when received.

However, a notice given in accordance with the above but received on a non-business day or after business hours in the place of receipt will only be deemed to be given on the next business day in that place. Facsimile or email Requests or Selection Notices are to be confirmed by the relevant Borrower in writing (but may be relied upon by the Agent and the Banks irrespective of receipt of such confirmation).

32.2 **Addresses for notices**

32.2.1 The address, facsimile number and email address of each Party (other than the Administrative Parties and the Parent) for all notices under or in connection with this Agreement are:

(A) that notified by that Party for this purpose to the Agent on or before it becomes a Party; or

(B) any other notified by that Party for this purpose to the Agent by not less than five Business Days' notice.

32.2.2 The address and facsimile number of the Agent are:

HSBC Bank plc
Level 28
8 Canada Square
London E14 5HQ
Contact: Corporate Trust and Loan Agency
Facsimile: (020) 7991 4348

or such other as the Agent may notify to the other Parties by not less than five Business Days' notice.

32.2.3 The address, facsimile number and email address of the US Agent are:

HSBC Bank USA, National Association
452 Fifth Avenue (8E6)
Corporate Trust and Loan Agency
New York, NY 10018
U.S.A

Primary Contact: Corporate Trust and Loan Agency
Facsimile: +1 917 229 4459
Email: ctlany.loanagency@us.hsbc.com

With a copy to:

HSBC Bank plc
Level 27
8 Canada Square
London E14 5HQ

Contact: Corporate Trust and Loan Agency
Facsimile: (020) 7991 4348

or such other as the US Agent may notify to the other Parties by not less than five Business Days' notice.

32.2.4 The address and facsimile number of the Parent are:

British American Tobacco p.l.c.
Globe House
4 Temple Place
London WC2R 2PG
Contact: The Group Treasurer
Facsimile: (020) 7845 2141

or such other as the Parent may notify to the other Parties by not less than five Business Days' notice.

32.2.5 Notices to be served on an Obligor other than the Parent shall be validly served on such Obligor by being addressed in accordance with Clause 32.2.3 and marked as served on the Parent on behalf of the relevant Obligor.

32.2.6 The Agent shall, promptly upon request from any Party, give to that Party the address, facsimile number or email address of any other Party applicable at the time for the purposes of this Clause.

32.3 **Communications when Agent is an Impaired Agent**

If the Agent is an Impaired Agent, the Parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Agent has been appointed.

33. **LANGUAGE**

33.1 Any notice given under or in connection with any Finance Document shall be in English.

33.2 All other documents provided under or in connection with any Finance Document shall be:

33.2.1 in English; or

33.2.2 if not in English, accompanied by a certified English translation and, in this case, the English translation shall prevail unless the document is a statutory or other official document.

34. **JURISDICTION**

34.1 **Submission**

For the benefit of each other Party, each Party agrees that the courts of England have jurisdiction to settle any disputes in connection with any Finance Document (including a dispute relating to the existence, validity or termination of any Finance Document or any non-contractual obligations arising out of or in connection with any Finance Document) and accordingly submits to the jurisdiction of the English courts.

34.2 **Service of process**

Without prejudice to any other mode of service, each Obligor (other than an Obligor incorporated in England and Wales):

34.2.1 irrevocably appoints the Parent as its agent for service of process relating to any proceedings before the English courts in connection with any Finance Document (and the Parent accepts this appointment);

34.2.2 agrees that failure by a process agent to notify the Obligor of the process will not invalidate the proceedings concerned; and

34.2.3 consents to the service of process relating to any such proceedings by prepaid posting of a copy of the process to its address for the time being applying under Clause 32.2 (*Addresses for notices*).

34.3 **Forum convenience and enforcement abroad**

Each Party:

34.3.1 waives objection to the English courts on grounds of inconvenient forum or otherwise as regards proceedings in connection with a Finance Document; and

34.3.2 agrees that a judgment or order of an English court in connection with a Finance Document is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

34.4 **Non-exclusivity**

Nothing in this Clause 34 limits the right of a Finance Party to bring proceedings or enforce a judgment against an Obligor in connection with any Finance Document:

34.4.1 in any other court of competent jurisdiction; or

34.4.2 to the extent permitted by applicable law, concurrently in more than one jurisdiction.

35. **WAIVER OF TRIAL BY JURY**

EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION IN CONNECTION WITH ANY FINANCE DOCUMENT OR ANY TRANSACTION CONTEMPLATED BY ANY FINANCE DOCUMENT. THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO TRIAL BY THE COURT.

36. **GOVERNING LAW**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

37. **US PATRIOT ACT**

Each Finance Party that is subject to the requirements of the (ii) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (commonly known as the USA Patriot Act) (the USA Patriot Act) hereby notifies each Obligor that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies the Obligors, which information includes the name and address of the Obligors and other information that will allow such Finance Party to identify the Obligors in accordance with the USA Patriot Act. Each Obligor agrees that it will provide each Finance Party with such information as it may reasonably request in order for such Finance Party to satisfy the requirements of the USA Patriot Act.

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

SCHEDULE 1

ORIGINAL PARTIES

PART I

ARRANGERS

Bank of America Merrill Lynch International Limited

Citigroup Global Markets Limited

Deutsche Bank AG London Branch

HSBC Bank plc

The Royal Bank of Scotland plc

PART II

BANKS AND COMMITMENTS

Bank	**Facility A Commitments**	**Facility B Commitments**	**Facility C Commitments**	**Facility D Commitments**
	US$	**US$**	**US$**	**US$**
Bank of America, N.A.	3,000,000,000	1,000,000,000	500,000,000	500,000,000
Citibank, N.A., London Branch	2,400,000,000	800,000,000	400,000,000	400,000,000
Citicorp North America Inc.	600,000,000	200,000,000	100,000,000	100,000,000
Deutsche Bank AG London Branch	3,000,000,000	1,000,000,000	500,000,000	500,000,000
HSBC Bank plc	3,000,000,000	1,000,000,000	500,000,000	500,000,000
The Royal Bank of Scotland plc	3,000,000,000	1,000,000,000	500,000,000	500,000,000
Total	**15,000,000,000**	**5,000,000,000**	**2,500,000,000**	**2,500,000,000**

SCHEDULE 2

CONDITIONS PRECEDENT DOCUMENTS

PART I

TO BE DELIVERED BEFORE THE FIRST ADVANCE

1. A copy of the articles of association and certificate of incorporation and by-laws (or equivalent constitutional documents) of each Obligor.

2. A copy of a resolution of the board of directors of each Obligor (or any duly authorised committee of any such board):

   (a) approving the terms of, and the transactions contemplated by, the Finance Documents and resolving that it execute and, where applicable, deliver the Finance Documents to which it is a party;

   (b) authorising a specified person or persons to execute and, where applicable, deliver the Finance Documents to which it is a party on its behalf; and

   (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including Requests and Selection Notices) to be signed and/or despatched by it under or in connection with the Finance Documents.

3. A specimen of the signature of each person authorised by the resolutions referred to in paragraph 2 above.

4. A certificate of an officer of each Obligor confirming that the borrowing of the Total Commitments in full would not cause any borrowing limits binding on that Obligor to be exceeded.

5. A certificate of an authorised signatory of each Obligor certifying that each copy document specified in Part I of this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the Signing Date.

6. Legal opinion of Allen & Overy LLP in relation to English law.

7. Legal opinion of Cravath, Swaine & Moore LLP in relation to United States and relevant state laws.

8. Confirmation from the Parent that each of the Parent and Reynolds American Inc. has received the requisite shareholder approval required to approve the Acquisition.

9. A copy of the Merger Agreement.

10. Confirmation from the Parent that the registration statement on Form F-4, relating to the registration under the U.S. Securities Act of 1933, as amended (the "**Securities Act**") of the ordinary shares of the Parent to be issued in the Acquisition, shall have been declared effective under the Securities Act.

11. Confirmation from the Parent that any waiting period applicable to the Acquisition under the U.S. Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, shall have been terminated or shall have expired.

PART II

TO BE DELIVERED BY AN ADDITIONAL BORROWER

1. A Borrower Accession Agreement, duly executed by the Additional Borrower and the Parent.

2. A copy of the articles of association and certificate of incorporation and by-laws or equivalent constitutional documents of the Additional Borrower.

3. A copy of a resolution of the board of directors of the Additional Borrower:

   (a) approving the terms of, and the transactions contemplated by, the Borrower Accession Agreement and resolving that it execute the Borrower Accession Agreement;

   (b) authorising a specified person or persons to execute the Borrower Accession Agreement on its behalf; and

   (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices (including Requests and Selection Notices) to be signed and/or despatched by it under or in connection with this Agreement.

4. A copy of any other authorisation or other document, opinion or assurance which the Agent reasonably considers to be necessary in connection with the entry into and performance of, and the transactions contemplated by, the Borrower Accession Agreement or for the validity and enforceability of any Finance Document.

5. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.

6. The latest audited accounts of the Additional Borrower (if any).

7. A legal opinion of Allen & Overy LLP, English legal advisers to the Agent and, if applicable, other lawyers approved by the Agent in the place of incorporation of the Additional Borrower, addressed to the Finance Parties.

8. A certificate of an authorised signatory of the Additional Borrower certifying that each copy document specified in Part II of this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Borrower Accession Agreement.

9. A process agent appointment letter if the Additional Borrower is incorporated outside the United Kingdom.

SCHEDULE 3

FORM OF REQUEST

To: HSBC Bank plc as Agent

From: [Borrower] Date: [ ]

British American Tobacco p.l.c.
US$25,000,000,000 Term Loan Facilities Agreement
dated [ ] 2017 (the "Facility Agreement")

1. We wish to utilise the Facilities as follows:

    (a) Name of Borrower:

    (b) Facility:

    (c) Utilisation Date:

    (d) Requested Amount (including currency):

    (e) Term:

    (f) Payment Instructions:

2. We confirm that each condition specified in Clause [4.2 (*Further conditions precedent*)/4.3 (*Certain Funds Utilisations*)] of the Facility Agreement is satisfied on the date of this Request and this Advance would not cause any borrowing limit binding on us to be exceeded.

By:

[BORROWER]

Authorised Signatory

SCHEDULE 4

FORMS OF ACCESSION DOCUMENTS

PART I

NOVATION CERTIFICATE

To: HSBC Bank plc as Agent and British American Tobacco p.l.c. as Parent
From: [The Existing Bank] and [The New Bank][1] Date: [ ]

British American Tobacco p.l.c.
US$25,000,000,000 Term Loan Facilities Agreement
dated [ ] 2017 (the "Facility Agreement")

We refer to Clause 26.3 (*Procedure for novations*) of the Facility Agreement.

1. We [●] (the **"Existing Bank"**) and [●] (the **"New Bank"**) agree to the novation to the New Bank of all the Existing Bank's rights and obligations under the Facility Agreement referred to in the Schedule in accordance with Clause 26.3 (*Procedure for novations*).

2. The specified date for the purposes of Clause 26.3.3 (*Procedure for novations*) is [date of novation].

3. The Facility Office and address for notices of the New Bank for the purposes of Clause 32.2 (*Addresses for notices*) are set out in the Schedule.

4. This Novation Certificate, and any non-contractual obligations arising out of or in connection with it, are governed by English law. Capitalised terms used in this Novation Certificate have the meanings specified in the Facility Agreement.

[1] If the New Bank holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facility Agreement, it must comply with the obligations set out in clause 10.5 of the Facility Agreement.

The Schedule
Rights and obligations to be novated

[Details of the rights and obligations of the Existing Bank to be novated].

[New Bank]

[Facility Office Address for notices]

[Existing Bank] [New Bank] [●]
By: By: By:
Date: Date: Date:

[British American Tobacco p.l.c.]
By:
Date:

PART II

BORROWER ACCESSION AGREEMENT

To: HSBC Bank plc as Agent
From: [Proposed Borrower] and British American Tobacco p.l.c.

[Date]

British American Tobacco p.l.c.
US$25,000,000,000 Term Loan Facilities Agreement
dated [ ] 2017 (the "Facility Agreement")

We refer to Clause 26.6 *(Additional Borrowers*) of the Facility Agreement.

[Name of company] of [registered office] (registered no. [•]) (the **"Proposed Borrower"**) agrees to become an Additional Borrower and to be bound by the terms of the Facility Agreement as an Additional Borrower in accordance with Clause 26.6 *(Additional Borrowers*) of the Facility Agreement.

The address for notices of the Proposed Borrower for the purposes of Clause 32.2 (*Addresses for notices*) of the Facility Agreement is:

[ ]

This Borrower Accession Agreement and any non-contractual obligations arising out of or in connection with it, are governed by English law. Capitalised terms used in this Borrower Accession Agreement have the meanings specified in the Facility Agreement.

By:

[Proposed Borrower]

Authorised Signatory
By:
British American Tobacco p.l.c.

Authorised Signatory

PART III

FORM OF BORROWER NOVATION AGREEMENT

A NOVATION AGREEMENT dated [ ]
BETWEEN:

(1) [ ] (the **"Existing Borrower"**);

(2) [ ] (the **"Substitute Borrower"**);

(3) British American Tobacco p.l.c. on behalf of itself and each other Obligor (such capitalised term are defined in the Facility Agreement referred to below) the (**"Parent"**); and

(4) HSBC Bank plc as agent (the **"Agent"**) on behalf of itself and the Finance Parties (as defined in the Facility Agreement referred to below),

and is supplemental to the US$25,000,000,000 Term Loan Facilities Agreement dated [ ] 2017 between, among others, British American Tobacco p.l.c., HSBC Bank plc as agent and the financial institutions listed in Part II (*Banks and Commitments*) of Schedule 1 (*Original Parties*) thereto (the **"Facility Agreement"**).

IT IS AGREED:

1. Novation

In consideration of a payment made by the Existing Borrower to the Substitute Borrower and the release of the Existing Borrower from its obligations and liabilities (actual or contingent) specified in the Schedule hereto under the Facility Agreement and with effect on and from [•] (the **"Substitution Date"**) the Substitute Borrower hereby undertakes to observe and perform all the obligations and liabilities (actual or contingent) of the Existing Borrower under the Facility Agreement in respect of the Advances specified in the Schedule (including any such obligations or liabilities as may have accrued or become due in respect thereof prior to the Substitution Date).

2. Integration

This Borrower Novation Agreement shall be read as one with the Facility Agreement so that any reference therein to "this Agreement", "hereunder" and similar shall include and be deemed to include this Borrower Novation Agreement.

3. Continuing Liability

The Parent on behalf of itself and each other Obligor acknowledges and confirms that its obligations as Guarantor under Clause 14 of the Facility Agreement apply to the obligations and liabilities assumed by the Substitute Borrower hereunder.

Schedule

[ ]

IN WITNESS whereof the parties hereto have caused this Borrower Novation Agreement to be duly executed on the date first written above.

……
For and on behalf of

[The Existing Borrower]

……
For and on behalf of

[The Substitute Borrower]

……
British American Tobacco p.l.c.

For and on behalf of each Obligor

……..
HSBC Bank plc as Agent

For and on behalf of each
Finance Party

SCHEDULE 5

FORM OF CONFIDENTIALITY UNDERTAKING

To: British American Tobacco p.l.c.

To: [Bank]

Dear Sirs

We refer to the US$25,000,000,000 Term Loan Facilities Agreement dated [•] 2017 (the **"Facility Agreement"**) between, among others, British American Tobacco p.l.c. and HSBC Bank plc as Agent.

This is a confidentiality undertaking referred to in Clause 27 (*Disclosure of Information and Know Your Customer Requirements*) of the Facility Agreement. A capitalised term defined in the Facility Agreement has the same meaning in this undertaking.

We are considering entering into contractual relations with [insert name of Bank] (the **"Bank"**) and understand that it is a condition of our receiving information about British American Tobacco p.l.c. and its related companies and any Finance Document and/or any information under or in connection with any Finance Document (the **"Information"**) that we execute this undertaking.

We undertake to treat as confidential any Information and to use the Information solely for the purposes of determining whether or not to enter into the contractual relations and to keep any Information under secured and controlled conditions. We will not disclose any of the Information to any third party (other than our directors, officers, employees or outside advisors, who shall be advised of and agree to those confidentiality obligations) without the prior written consent of the Parent.

The foregoing undertakings do not apply to any Information that is publicly available when provided or that thereafter becomes publicly available other than through a breach by us of the above undertakings, or that is required to be disclosed by us by judicial or administrative process in connection with any action, suit, proceedings or claim or in order to comply with a request from any fiscal, monetary or other authority with which we are accustomed to comply or otherwise by applicable law. Information shall be deemed **"publicly available"** if it becomes a matter of public knowledge or is contained in materials available to the public or is obtained by us from any source other than the Bank or from you (or its or your directors, officers, employees or outside advisors), provided that such source has not entered into a confidentiality agreement with you with respect to the Information

Yours faithfully,

[•]

SCHEDULE 6

FORM OF INCREASE CONFIRMATION

To: HSBC Bank plc as Agent and British American Tobacco p.l.c. as Parent

From: [the *Increase Bank*] (the **"Increase Bank"**)[2]

Dated:

British American Tobacco p.l.c.
US$25,000,000,000 Term Loan Facilities Agreement
dated [ ] 2017 (the "Facility Agreement")

1. We refer to the Facility Agreement. This agreement (the **"Agreement"**) shall take effect as an Increase Confirmation for the purpose of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.

2. We refer to Clause 26.11 (*Increase*) of the Facility Agreement.

3. The Increase Bank agrees to assume and will assume all of the obligations corresponding to the Commitment specified in the Schedule (the **"Relevant Commitment"**) as if it was an Original Bank under the Facility Agreement.

4. The proposed date on which the increase in relation to the Increase Bank and the Relevant Commitment is to take effect (the **"Increase Date"**) is [ ].

5. On the Increase Date, the Increase Bank becomes party to the relevant Finance Documents as a Bank.

6. The Facility Office and address, fax number, attention, credit contact and loan administration contact details for notices to the Increase Bank for the purposes of Clause 32.2 (*Addresses for notices*) are set out in the Schedule.

7. The Increase Bank expressly acknowledges the limitations on the Banks' obligations referred to in Clause 26.11 (*Increase*).

8. The Increase Bank confirms that it is not an Affiliate of the Parent.

9. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

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

11. This Agreement has been entered into on the date stated at the beginning of this Agreement.

---

[2] If the Increase Bank holds a passport under the HMRC DT Treaty Passport scheme and wishes that scheme to apply to the Facility Agreement, it must comply with the obligations set out in clause 10.5 of the Facility Agreement.

THE SCHEDULE
RELEVANT COMMITMENT/RIGHTS AND OBLIGATIONS TO BE ASSUMED BY THE INCREASE BANK

[Facility office address, fax number and attention details for notices and account details for payments/standard settlement instructions]
[Increase Bank]

By:

This Agreement is accepted as an Increase Confirmation for the purposes of the Facility Agreement by the Agent and the Increase Date is confirmed as [ ].

Agent:

By:

SCHEDULE 7

EXTENSION NOTICE

To: HSBC Bank plc as Agent

From: British American Tobacco p.l.c.

[Date]

British American Tobacco p.l.c.
US$25,000,000,000 Term Loan Facilities Agreement
dated [ ] 2017 (the "Facility Agreement")

1. We hereby give you notice pursuant to [Clause 2.4.1 (*Facility A Extension Option*)]/ [Clause 2.4.2 (*Facility B Extension Option*)][3] of the Facility Agreement that we request to extend [Facility A] / [Facility B][4], so that the [Facility A Final Maturity Date] / [Facility B Final Maturity Date][5] be extended to the date falling [18/24/30/36][6] months after the Start Date.

2. We confirm that as at the date of this Extension Notice:

   (a) the representations and warranties in Clause 15 (*Representations and Warranties*) of the Facility Agreement except for Clause 15.8 (*Litigation*), Clause 15.9 (*Material adverse change*) and Clause 15.11 (*Sanctions*) are correct; and

   (b) no Event of Default is outstanding.

3. Capitalised terms used in this Extension Notice bear the meaning given to them in the Facility Agreement.

_____
For and on behalf of
British American Tobacco p.l.c.

[3] Delete as appropriate
[4] Delete as appropriate
[5] Delete as appropriate
[6] Delete as appropriate.

SCHEDULE 8

SELECTION NOTICE

To: HSBC Bank plc as Agent

From: [Borrower]

Date:

British American Tobacco p.l.c.
US$25,000,000,000 Term Loan Facilities Agreement
dated [ ] 2017 (the "Facility Agreement")

1. This Selection Notice is irrevocable. Capitalised terms used in this Selection Notice bear the meaning given to them in the Facility Agreement.

2. We refer to the following Advance[s] under [*identify Facility*] in [*identify currency*] with a Term ending on [ ]*.

3. [We request that the next Term for the above Advance[s] is [ ]].

By:

[BORROWER]

Authorised Signatory

_____

* Insert details of all Advances in the same currency which have a Term ending on the same date.

SIGNATORIES

Original Borrowers

B.A.T. INTERNATIONAL FINANCE P.L.C.

By: /s/

B.A.T CAPITAL CORPORATION

By: /s/

Guarantor

BRITISH AMERICAN TOBACCO P.L.C.

By: /s/

Agent

HSBC BANK PLC
By: /s/

US Agent

HSBC BANK USA, NATIONAL ASSOCIATION
By: /s/

Arrangers

BANK OF AMERICA MERRILL LYNCH INTERNATIONAL LIMITED
By: /s/

CITIGROUP GLOBAL MARKETS LIMITED
By: /s/

DEUTSCHE BANK AG LONDON BRANCH
By: /s/

HSBC BANK PLC
By: /s/

THE ROYAL BANK OF SCOTLAND PLC
By: /s/

Banks

BANK OF AMERICA, N.A.
By: /s/

CITIBANK, N.A., LONDON BRANCH
By: /s/

CITICORP NORTH AMERICA INC.
By: /s/

DEUTSCHE BANK AG LONDON BRANCH
By: /s/

HSBC BANK PLC
By: /s/

THE ROYAL BANK OF SCOTLAND PLC
By: /s/

Exhibit 99.14

Not for release, publication or distribution, in whole or in part, in or into or from any jurisdiction where to do so would constitute a violation of the relevant laws or regulations of such jurisdiction

This announcement contains inside information.

For immediate release: 17 January 2017

BAT Announces Agreement to Acquire Reynolds

British American Tobacco p.l.c. ("BAT") and Reynolds American Inc. ("Reynolds"), have agreed the terms of a recommended offer for BAT to acquire the remaining 57.8% of Reynolds it does not already own. The transaction has been unanimously approved by the Transaction Committee of independent Reynolds directors established to evaluate the BAT offer. The transaction has also been approved by the Boards of Reynolds and BAT.

Agreed Terms

- Reynolds shareholders will receive for each Reynolds share $29.44 in cash and 0.5260 BAT ordinary shares which shall be represented by BAT American Depository Receipts (ADRs) listed on the New York Stock Exchange
- Based on BAT's share price and the Dollar-Sterling exchange rate as at market close on 16 January 2017[1], this implies a total current value of $59.64 per Reynolds share and a total current value of approximately $49.4 billion for the 57.8% of Reynolds not already owned by BAT
- Represents a premium of 26% over the closing price of Reynolds common stock on 20 October 2016 (being the last day prior to BAT's announcement of a proposal to merge with Reynolds)
- NYSE-listed Level III ADRs representing BAT ordinary shares will be issued following registration under US securities laws

Creates a stronger, truly global tobacco and Next Generation Products ("NGP") company to deliver sustained long-term profit growth and returns with:

- A balanced presence in high growth emerging markets and high profitability developed markets, combined with direct access to the attractive US market
- A portfolio of strong, growing global brands, bringing together ownership of Newport, Kent and Pall Mall
- A truly global NGP business, with a world class pipeline of vapour and tobacco heating products and access to the fastest growing NGP markets
- At least $400m of annualised cost synergies anticipated by the end of year 3, supporting continued margin improvement
- EPS and DPS accretive in the first full year and targeting mid-single digit EPS accretion in year 3, with the transaction beating the Group's WACC for the US by year 5.
- Enhanced cash generation with increased control of a significant proportion of group cash flows
- Continued commitment to BAT's dividend policy with a payout ratio of at least 65%
- A continuing strong financial profile, targeting a solid investment grade credit rating through progressive deleveraging

BAT's Chief Executive, Nicandro Durante commented:

"We are very pleased to have reached an agreement with the Transaction Committee and Board of Reynolds and we look forward to putting the recommended offer to shareholders. We have been shareholders in Reynolds since 2004 and we have benefited from the success of the present management team's strategy, including its acquisition of Lorillard, which we supported with our own investment in 2015. BAT has consistently executed a winning strategy and has a proven track record of delivering strong results and returns for its shareholders while successfully investing for future growth. Our combination with Reynolds will benefit from utilising the best talent from both organisations. It will create a stronger, global tobacco and NGP business with direct access for our products across the most attractive markets in the world. We believe this will drive continued, sustainable profit growth and returns for shareholders long into the future."

1 Reference BAT share price of GBp 4,762.5 and exchange rate of 1.2056 as quoted by Bloomberg

Key terms of the transaction

The transaction will be effected through a US statutory merger in which Reynolds shareholders, other than BAT, will receive $29.44 in cash and 0.5260 BAT ordinary shares which shall be represented by BAT ADRs listed on the New York Stock Exchange for each of their Reynolds shares.

Based on BAT's share price and the Dollar-Sterling exchange rate as at market close on 16 January 2017, the purchase price implies a total current value of $49.4 billion for the remaining 57.8% of Reynolds not owned by BAT, comprised of approximately $24.4 billion in cash and $25.0 billion in BAT ADRs

Based on BAT's share price and the Dollar-Sterling exchange rate as at market close on 16 January 2017, the agreed terms represent a premium of: 26% over the closing price of Reynolds common stock on 20 October 2016 (the last day prior to BAT's announcement of a proposal to merge with Reynolds) and a current Enterprise Value of $97 billion which, based on reported LTM EBITDA to 30 September 2016, represents an attractive multiple of 16.9x.

The cash component of the transaction will be financed by a combination of existing cash resources, new bank credit lines and the issuance of new bonds. A $25bn acquisition facility has been entered into with a syndicate of banks to provide financing certainty. The acquisition facility comprises $15bn and $5bn bridge loans with 1 and 2-year maturities respectively, each with two six month extensions available at BAT's option. In addition, the facility includes two $2.5bn term loans with maturities of 3 and 5 years. BAT intends to refinance the bridge loans through capital market debt issuances in due course.

BAT is committed to maintaining a solid investment grade credit rating and intends to delever, targeting a net debt to EBITDA metric of around 3.0x by the end of 2019.

BAT anticipates taking actions to treat legacy Reynolds and BAT debt pari-passu.

Until completion Reynolds shareholders will remain entitled to Reynolds dividends payable in the ordinary course. Reynolds shareholders will be entitled to BAT dividends (with record dates following completion) in respect of their new BAT shares from the time of issuance of such shares.

BAT intends to register BAT ADRs under US securities laws. The transaction is a Class 1 transaction for BAT for the purposes of the UK Listing Rules requiring the approval of BAT shareholders. A shareholder circular, together with notice of the relevant shareholder meeting, will be distributed to BAT shareholders in due course. The parties expect the transaction to close during Q3 2017.

It has been agreed that three of the non-BAT nominated Reynolds directors will join the Board of BAT at closing.

Both the BAT and the Reynolds' Boards will recommend the transaction to their respective shareholders. A break fee of up to $1 billion is payable by either BAT or Reynolds under certain circumstances. More information is provided in the Closing Conditions section.

Creates a stronger, truly global tobacco and Next Generation Products ("NGP") company

Post transaction, the group will be a larger, broader, more geographically diversified business with a unique footprint providing continued exposure to high growth emerging markets, direct access to the opportunity in the US market, and a broad presence in key developed markets.

Direct access to the attractive US market:

> The US is the largest tobacco profit pool globally (ex-China), with the combination of affordable pack prices, relatively high disposable incomes and a growing market for NGPs underpinning the opportunity for long-term profitable growth.
>
> Reynolds is well-positioned as the number two player in the US market, with three out of the four top selling cigarette brands and the benefits from the Lorillard acquisition already evident. Reynolds has a 34% cigarette market share, with Newport the leading brand in menthol, Pall Mall the leading value brand and Natural American Spirit, the fastest growing premium brand. Reynolds' American Snuff subsidiary also has a 33% share of the growing moist snuff segment, led by its Grizzly brand.
>
> BAT has a successful track record of developing strong brands and growing market share through a consistent focus on product quality and innovation, enabling it to build on Reynolds' existing share growth momentum.

Significant presence in high growth emerging markets:

BAT has a significant presence in emerging markets across South America, Africa, the Middle East and Asia and emerging markets will account for 60% of volume in the enlarged group. Over the last 5 years, revenue per pack in these markets has grown at more than twice the rate compared to developed markets. With generally low cigarette pack prices and expectations of continued growth in consumer disposable income over the long term, the future profit growth opportunity remains strong. BAT sees emerging markets as the source of future profit growth for the BAT group and developed markets as the source of current profit growth.

Portfolio of strong, global brands:

BAT has a proven track record of developing strong, global brands driven by innovation and product quality. The Global Drive Brand portfolio of Dunhill, Kent, Lucky Strike, Pall Mall and Rothmans has grown volume at an average of 7% per annum over the last 3 years, gaining more than 200bps share over the period. The transaction also brings together the Newport, Kent and Pall Mall brands under common ownership.

Establishes a truly global NGP business with a world class pipeline:

The combined business will be the only truly global company in the fast growing NGP category, with a unique opportunity to leverage scale and insights across the largest and fastest growing NGP markets and categories.

BAT's multi category strategy in NGPs is aimed at satisfying different consumer moments, with the capability of effectively addressing rapidly developing consumer behaviours. Based on our estimated share of the global vapour market outside the US, BAT is already the largest international company in the category, having successfully launched a portfolio of products in the 5 largest vapour markets in Europe. This includes leadership positions in the United Kingdom and Poland. In December 2016, Glo, an innovative tobacco heating product, was launched in Japan with encouraging early results.

In addition, Reynolds' Vuse is one of the leading vapour brands sold in retail in the world's largest vapour market.

The transaction will benefit from the best of the two companies' talented R&D and NGP organisations and allow NGP capabilities to be shared more broadly. Direct access to the US vapour market permits further leverage of this world class pipeline of NGPs.

Delivers sustained long-term profit growth and returns

The transaction on the recommended terms represents an attractive offer to Reynolds shareholders, with a significant cash component and the opportunity to participate in the future returns from the combined company. The transaction also meets BAT's financial criteria for acquisitions.

Direct access to the opportunity in the US market further supports BAT's commitment to delivering long-term profitable growth through consistent revenue growth and margin enhancement of 50-100 basis points on average, per annum.

BAT anticipates realising at least $400m in annualised cost synergies by the end of year 3. These synergies will be achieved by leveraging the scale of the combined business, increasing efficiencies and aligning to BAT's Target Operating Model. Cost synergies exist in three main areas - procurement, product development and corporate costs of the combined group. The delivery of these synergy benefits, together with the opportunity for profitable growth in the US market, further supports BAT's commitment to margin enhancement of 50-100 basis points on average, per annum.

BAT's existing manufacturing footprint will be enhanced by the inclusion of the Reynolds Group's high quality production facilities in North Carolina and Tennessee.

The transaction is expected to be accretive to adjusted fully diluted EPS in the first full year, targeting mid-single digit EPS accretion in year 3, and to beat the group WACC for the US by year 5. The transaction will significantly enhance BAT's cash flow generation profile with increased control of what will be a significant proportion of group cash flows and a more diversified FX exposure.

BAT intends to maintain its dividend policy of a minimum 65% payout ratio post transaction and expects the transaction to be accretive to dividends per share.

Closing conditions

The parties expect the transaction to close during the third quarter of 2017, subject to: obtaining affirmative votes from BAT and Reynolds shareholders; obtaining anti-trust approvals in the US and Japan; registration of BAT shares with the SEC; approval of the BAT shares for listing on the LSE and the BAT ADRs on the NYSE; and, other customary conditions. Completion of the merger is not subject to any financing condition.

BAT intends to register BAT ADRs under US securities laws. The transaction is a Class 1 transaction for BAT for the purposes of the UK Listing Rules requiring the approval of BAT shareholders. A shareholder circular, together with notice of the relevant shareholder meeting, will be distributed to BAT shareholders in due course.

If either of the BAT or Reynolds' Boards decides in line with its fiduciary duties to withhold or withdraw its recommendation to its shareholders to vote in favour of the transaction and the merger agreement is terminated, such party would be required to pay a break fee of $1 billion to the other party. Under certain circumstances, in the event that the merger agreement is terminated and a competing transaction completes within 12 months of that termination, the party completing the competing transaction would be required to pay a break fee of $1 billion. In the event that (a) certain anti-trust approvals are not obtained or (b) an anti-trust approval is conditioned on disposals or other conduct remedies and BAT does not accept such conditions and therefore does not complete this transaction, BAT must pay an anti-trust break fee of $500 million to Reynolds. The anti-trust break fee would not be payable in addition to the $1 billion break fee.

BAT intends to file the merger agreement and other relevant documents with the SEC and such documents may be retrieved free of charge at the SEC's website, http://www.sec.gov. These are expected to be available at some point later today.

Conference Call and Webcast Information
BAT will host a conference call and live webcast at 8.30am GMT on 17th January 2017, to discuss the merger agreement.

Webcast and Conference Call
A live webcast of the announcement is available via www.bat.com/ir.
If you wish to listen to the presentation via a conference call facility please use the dial in details below:
Dial-in number: +44 20 3139 4830
Passcode: 97647764#

Conference Call Playback Facility
A replay of the conference call will also be available for 30 days.
Dial-in number: +44 20 3426 2807
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The person responsible for making this announcement is Nicola Snook, BAT's Company Secretary.

NOTES TO EDITORS

About BAT

BAT is a global tobacco group with brands sold in more than 200 markets. It employs more than 50,000 people worldwide and has over 200 brands in its portfolio, with its cigarettes chosen by around one in eight of the world's one billion smokers. BAT has market leading positions in at least 55 markets around the world. The Group generated £5 billion adjusted profit from operations in 2015.

About Reynolds

For the year ended 31 December 2015, Reynolds generated profit before tax of $6,384 million and as at 30 September 2016 had gross assets of $51,792 million.

Centerview Partners, Deutsche Bank and UBS are acting as financial advisers to BAT. Deutsche Bank and UBS are joint corporate brokers to BAT and acting as joint sponsors to BAT in relation to the transaction described in this announcement. Cravath, Swaine & Moore LLP and Herbert Smith Freehills LLP are acting for BAT as US and UK legal counsel respectively. PwC are acting as accountants and advisors to BAT on the transaction described in this announcement.

Centerview Partners UK LLP ("Centerview Partners") is authorised and regulated by the Financial Conduct Authority in the United Kingdom. Centerview Partners is acting exclusively for BAT and no one else in connection with the transaction described in this announcement. Centerview Partners will not regard any other person as its client in relation to the transaction described in this announcement and will not be responsible to any person other than BAT for providing the protections afforded to clients of Centerview Partners or for providing advice in relation to the transaction described in this announcement or any other matter referred to herein.

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Deutsche Bank AG, acting through its London branch ("DB London"), and Deutsche Bank Securities Inc. ("DBSI" and with DB London, "DB") are acting as joint financial adviser and DB London is acting as joint corporate broker and joint sponsor to BAT. DB are acting exclusively for BAT and no one else in connection with the transaction described in this announcement. DB will not regard any other person as their client in relation to the transaction described in this announcement and will not be responsible to any person other than BAT for providing the protections afforded to clients of DB or for providing advice in relation to the transaction described in this announcement or any other matter referred to herein.

UBS Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority in the United Kingdom. UBS Limited is acting exclusively for BAT and no one else in connection with the transaction described in this announcement. UBS Limited will not regard any other person as its client in relation to the transaction described in this announcement and will not be responsible to any person other than BAT for providing the protections afforded to clients of UBS Limited or for providing advice in relation to the transaction described in this announcement or any other matter referred to herein.

Apart from the responsibilities and liabilities, if any, which may be imposed on it by the Financial Services and Markets Act 2000, none of Centerview Partners, DB or UBS Limited accepts any responsibility whatsoever and makes no representation or warranty, express or implied, as to the contents of this announcement, including its accuracy, fairness, sufficiency, completeness or verification or for any other statement made or purported to be made by it, or on its behalf, in connection with BAT or the transaction described in this announcement, and nothing in this announcement is, or shall be relied upon as, a promise or representation in this respect, whether as to the past or the future. Each of Centerview Partners, DB and UBS Limited accordingly disclaims to the fullest extent permitted by law all and any responsibility and liability whether arising in tort, contract or otherwise (save as referred to above) which it might otherwise have in respect of this announcement.

For further information

A copy of this announcement will be made available, subject to certain jurisdiction restrictions, on BAT's website at BATReynolds.transactionannouncement.com. For the avoidance of doubt, the contents of this website is not incorporated into and does not form part of this announcement.

Overseas jurisdictions

The release, publication or distribution of this announcement in or into jurisdictions other than the United States or the United Kingdom may be restricted by law and therefore any persons who are subject to the law of any jurisdiction other than the United States or the United Kingdom should inform themselves about, and observe, any applicable legal or regulatory requirements. Any failure to comply with the applicable restrictions may constitute a violation of the securities laws of any such jurisdiction. To the fullest extent permitted by applicable law, the companies and persons involved in the transaction disclaim any responsibility or liability for the violation of such restrictions by any person.

Copies of this announcement and formal documentation relating to the transaction will not be and must not be, mailed or otherwise forwarded, distributed or sent in, into or from any jurisdiction outside of the United States and the United Kingdom where such distribution, publication, availability or use would be contrary to law or regulation or which would require any registration or licensing within such jurisdiction. Doing so may render invalid any related purported vote in respect of the transaction

Forward looking statements

Certain statements in this communication regarding the proposed merger of Reynolds and BAT (the "Proposed Transaction"), the expected timetable for completing the Proposed Transaction, the benefits and synergies of the Proposed Transaction, future opportunities for the combined company and any other statements regarding BAT's, Reynolds' or the combined company's future expectations, beliefs, plans, objectives, financial conditions, assumptions or future events or performance that are not historical facts are "forward-looking" statements made within the meaning of Section 21E of the United States Securities Exchange Act of 1934. These statements are often, but not always, made through the use of words or phrases such as "believe," "anticipate," "could," "may," "would," "should," "intend," "plan," "potential," "predict," "will," "expect," "estimate," "project," "positioned," "strategy," "outlook" and similar expressions. All such forward-looking statements involve estimates and assumptions that are subject to risks, uncertainties and other factors that could cause actual future financial condition, performance and results to differ materially from the plans, goals, expectations and results expressed in the forward-looking statements and other financial and/or statistical data within this communication. Among the key factors that could cause actual results to differ materially from those projected in the forward-looking statements are uncertainties related to the following: whether the conditions to the Proposed Transaction will be satisfied and the Proposed Transaction will be completed on the anticipated timeframe, or at all; the failure to realize contemplated synergies and other benefits from the Proposed Transaction; the incurrence of significant costs and the availability and cost of financing in connection with the Proposed Transaction; the effect of the announcement of the Proposed Transaction, and related uncertainties as to whether the Proposed Transaction will be completed, on BAT's, Reynolds' or the combined company's ability to retain customers, retain and hire key personnel and maintain relationships with suppliers and on their operating results and businesses generally; the ability to maintain credit ratings; changes in the tobacco industry and stock market trading conditions; changes or differences in domestic or international economic or political conditions; changes in tax laws and rates; the impact of adverse legislation and regulation; the ability to develop, produce or market new alternative products profitably; the ability to effectively implement strategic initiatives and actions taken to increase sales growth; the ability to enhance cash generation and pay dividends; adverse litigation and dispute outcomes; and changes in the market position, businesses, financial condition, results of operations or prospects of BAT, Reynolds or the combined company.

Additional information concerning these and other factors can be found in Reynolds' filings with the U.S. Securities and Exchange Commission ("**SEC**"), including Reynolds' most recent Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K and BAT's Annual Reports, which may be obtained free of charge from BAT's website www.BAT.com. Readers are cautioned not to place undue reliance on these forward-looking statements that speak only as of the date hereof and BAT undertakes no obligation to update or revise publicly any forward-looking statements or other data or statements contained within this communication, whether as a result of new information, future events or otherwise.

No statement in this announcement is intended to be a profit forecast and no statement in this announcement should be interpreted to mean that earnings per share of BAT or Reynolds for the current or future financial years would necessarily match or exceed the historical published earnings per share of BAT or Reynolds, respectively.

Additional information and where to find it

This communication is neither a solicitation of a proxy nor a substitute for any proxy statement or other filings that may be made with the SEC in connection with the Proposed Transaction. Any solicitation will only be made through materials filed with the SEC. Nonetheless, this communication may be deemed to be solicitation material in respect of the Proposed Transaction by BAT.

BAT intends to file relevant materials with the SEC, including a registration statement on Form F-4 that will include a proxy statement of Reynolds that also constitutes a prospectus of BAT. Investors and security holders are urged to read all relevant documents filed with the SEC (if and when they become available), including the proxy statement/prospectus, because they will contain important information about the Proposed Transaction. Investors and security holders will be able to obtain the documents (if and when available) free of charge at the SEC's website, http://www.sec.gov, or for free from BAT by using the contact details above. Such documents are not currently available.

BAT will also prepare a shareholder circular to be distributed to BAT shareholders. BAT urges BAT shareholders to read the shareholder circular carefully when it becomes available because it will contain important information in relation to the transaction. Any vote in respect of the resolutions to be proposed at the general meeting of BAT to approve the transaction and related matters should be made only on the basis of the information contained in the shareholder circular.

Participants in solicitation

This communication is neither a solicitation of a proxy nor a substitute for any proxy statement or other filings that may be made with the SEC in connection with the Proposed Transaction. Nonetheless, BAT and its affiliates and each of their directors and executive officers and certain employees may be deemed to be participants in the solicitation of proxies from the holders of Reynolds common stock with respect to the Proposed Transaction. Information about such parties and a description of their interests are set forth in BAT's 2015 Annual Report, which may be obtained free of charge from BAT's website www.BAT.com and the proxy statement for Reynolds' 2016 Annual Meeting of Stockholders, which was filed with the SEC on March 23, 2016. To the extent holdings of Reynolds securities by such parties have changed since the amounts contained in the proxy statement for Reynolds' 2016 Annual Meeting of Stockholders, such changes have been or will be reflected on Statements of Change in Ownership on Form 4 filed with the SEC. Additional information regarding the interest of such parties will also be included in the materials that BAT intends to file with the SEC in connection with the Proposed Transaction. These documents (if and when available) may be obtained free of charge from the SEC's website http://www.sec.gov, or from BAT using the contact information above.

Non-solicitation

This communication shall not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

This communication should not be construed as, investment advice and is not intended to form the basis of any investment decision, nor does it form the basis of any contract for acquisition or investment in any member of the BAT group, financial promotion or any offer, invitation or recommendation in relation to any acquisition of, or investment in, any member of the BAT group.

If you are in any doubt about the contents of this announcement or the action you should take, you are recommended to seek your own independent personal financial advice immediately from your stockbroker, bank manager, solicitor, accountant, fund manager or other appropriate independent financial adviser duly authorised under the UK Financial Services and Market Act 2000 (as amended) if you are resident in the United Kingdom or, if not, from another appropriately authorised independent financial adviser.