

FINAL VERSION

I hereby certify this to be a
true copy of the original
NADIA MILLIGAN, solicitor
of England & Wales
6 July 2018

17 May 2018



MOTHERCARE PLC
as Borrower

and

BLAKE HOLDINGS LIMITED
as Lender

£5,000,000 UNSECURED CONVERTIBLE TERM LOAN AGREEMENT

Slaughter and May
One Bunhill Row
London EC1Y 8YY
(RWB/SZXR/ESG)

552479182

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THIS AGREEMENT is dated 17 May 2018.

BETWEEN:

- (1) **MOTHERCARE PLC**, a company incorporated in England and Wales whose registered office is Cherry Tree Road, Watford, Hertfordshire WD24 6SH and whose registered number is 01950509 (the "Borrower"); and
- (2) **BLAKE HOLDINGS LIMITED**, a company incorporated in Jersey whose registered office is at Kensington Chambers 46/50 Kensington Place St Helier Jersey JE1 1ET and whose registered number is 113725 (the "Lender").

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Adjustment Events**" means any of the following events:

- (A) there is any change to the Borrower's share capital as a result of capitalisation of reserves, profits or share premium, by means of the distribution of Shares or in the event of division, subdivision or consolidation of Shares or any cancellation, purchase, redemption, reduction or repayment of Shares by the Borrower;
- (B) the Borrower, or any third party with the agreement of the Borrower, issues (whether for cash or non-cash consideration or for no consideration) or grants to any person any rights or options, warrants or other rights to subscribe for or acquire Shares or securities convertible or exchangeable into Shares; or
- (C) the Borrower pays a dividend or otherwise issues or distributes to holders of its Shares any assets, evidence of indebtedness of the Borrower, shares or other rights,

except in relation to the Permitted Adjustment Event, the Equity Issuance, or the grant or award, in the ordinary course, of options or Shares pursuant to the Borrower's executive or employee share schemes or incentive plans;

"**Affiliates**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company;

"**Articles**" means the articles of association of the Borrower;

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisisation or registration;

"Availability Period" means the period from and including the date of this Agreement to and including the earlier of:

- (A) the date falling 5 Business Days after the date of the public announcement of the launch of the Permitted Company Voluntary Arrangements; and
- (B) one month from the date of this Agreement;

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London;

"Change of Control" has the meaning assigned to it in Clause 7.2 (*Conversion or prepayment of the Loan following a Change of Control*);

"Code" means the City Code on Takeovers and Mergers;

"Confidential Information" means all information relating to the Borrower, the Group, the Finance Documents or the Facility of which the Lender becomes aware in its capacity as a Lender or which is received by the Lender in relation to the Finance Documents or the Facility from any member of the Group or any of its advisers in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (A) is or becomes public information other than as a direct or indirect result of any breach by the Lender of Clause 20 (*Confidentiality*); or
- (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
- (C) is known by the Lender before the date the information is disclosed to it in accordance with this Agreement or is lawfully obtained by the Lender after that date, from a source which is, as far as the Lender is aware, unconnected with the Group and which, in either case, as far as the Lender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality;

"Conversion Conditions" has the meaning assigned to it in Clause 7.3 (*Conversion Conditions*);

"Conversion Date" means, in the case of a conversion under:

- (A) Clause 7.1 (*Lender Conversion Option*), 31 May or 30 November in any particular year as selected by the Lender in the relevant Conversion Notice; or
- (B) Clause 7.2 (*Conversion or prepayment of the Loan following a Change of Control*), immediately on the date of a Change of Control occurring;

"Conversion Notice" has the meaning assigned to it in Clause 7.4(B);

"Conversion Price" means the lowest of:

- (A) 19 pence per share; and
- (B) the lowest price per share of the Borrower paid for newly issued shares of the Borrower by investor(s) from a single issue of shares to any person(s) occurring after the date of this Agreement, not including any grant or award, in the ordinary course, of options or Shares pursuant to the Borrower's executive or employee share schemes or incentive plans;

"Conversion Shares" means any Shares to be allotted and issued to the Lender in accordance with Clause 7.1 or 7.2, the number of which shall be calculated in accordance with Clause 7.6(B);

"CREST" means the relevant system (as defined in the Uncertificated Securities Regulations 2005) in respect of which Euroclear UK & Ireland is the Operator (as defined in the Uncertificated Securities Regulations 2005);

"CVA Effective Date" means the date on which both Relevant Company Voluntary Arrangements have become effective in accordance with their terms and either (i) the applicable challenge periods have either expired or, (ii) if a challenge is made by any creditor to any of such CVAs on grounds of material irregularity or unfair prejudice, such challenge has been withdrawn or successfully resolved;

"CW CVA" means the Permitted Company Voluntary Arrangement in respect of Children's World Limited;

"Default" means an Event of Default or any event or circumstance specified in Clause 12 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Agreement or any combination of any of the foregoing) be an Event of Default;

"Disruption Event" means either or both of:

- (A) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by this Agreement 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 (including, without limitation, disruption of a technical or systems-related nature) to the treasury or payments operations of a Party preventing or severely inhibiting that, or any other Party;

"Equity Financing" means the Borrower raising any amount from a single issue of ordinary voting shares of the Borrower to any person(s), not including any grant or award, in the ordinary course, of options or Shares pursuant to the Borrower's executive or employee share schemes or incentive plans;

"Equity Issuance" means the raising by the Borrower by way of a placing and open offer, or a rights issue, of new Shares with aggregate gross proceeds of no less than £28 million;

"Equity Issuance Effective Date" means the date on which the new Shares created pursuant to the Equity Issuance are admitted on the premium listing segment of the Official List maintained by the Financial Conduct Authority and to trading on the London Stock Exchange's main market for listed securities;

"Event of Default" means any event or circumstance specified as such in Clause 12 (*Events of Default*);

"Facility" means the term loan facility made available under this Agreement as described in Clause 2 (*The Facility*);

"Facility Amount" means £5,000,000 or such other amount as may be agreed by the Borrower and the Lender from time to time;

"Finance Document" means this Agreement, any Utilisation Request and any other document designated as such by the Borrower and the Lender;

"Financial Indebtedness" means any indebtedness for or in respect of:

- (A) monies borrowed and debit balances at banks or other financial institutions;
- (B) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (C) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (D) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with IFRS, be treated as a finance or capital lease (provided that such finance or capital leases shall not include any lease which, under IFRS used for the audited consolidated financial statements of the Group for the financial year ended 30 March 2017, would be treated as an operating lease);
- (E) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);

- (F) any amount raised under any other transaction (including any forward sale or purchase agreement, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under IFRS;
- (G) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);
- (H) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (I) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (A) to (H) (inclusive).

"Franchise Partner Financing Agreement" means the financing agreement entered into or to be entered into on or around the date of this Agreement by Mothercare UK Limited and other members of the Group with one or more of the Group's franchise partners pursuant to which up to £15 million (or its equivalent in other currencies) will be made available with a right to set-off amounts outstanding under the financing arrangement against the outstanding receivables owed by that franchise partner;

"Group" means the Borrower and its Subsidiaries for the time being;

"Holding Company" means, in relation to any person, any other person in respect of which it is a Subsidiary;

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

"Liabilities" means any present or future liability (actual or contingent), together with:

- (A) any permitted novation, deferral or extension of that liability;
- (B) any further advance which may be made under any agreement expressed to be supplemental to any document in respect of that liability, together with all related interest, fees and costs;
- (C) any claim for damages or restitution in the event of rescission of that liability or otherwise;
- (D) any claim flowing from any recovery by a payment or discharge in respect of that liability on grounds of preference or otherwise; and

- (E) any amount (such as post-insolvency interest) which would be included in any of the above but for its discharge, non-provability, unenforceability or non-allowability in any insolvency or other proceedings.

"Loan" means the loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan;

"Material Adverse Effect" means a material adverse effect on:

- (A) the financial condition of the Group as a whole;
- (B) the ability of the Borrower to perform its payment obligations under the Finance Documents taking into account any actions or resources which are (or are reasonably likely to become) available to the Group to facilitate such performance; or
- (C) the rights or remedies taken as a whole of the Lender under the Finance Documents;

"Mothercare Executive Pension Scheme" means the Mothercare Executive Pension Scheme established by an Interim Deed dated 29 March 1979 and currently governed by a trust deed and rules annexed to a deed of consolidation dated 1 November 2016 (as amended from time to time);

"Party" means a party to this Agreement;

"Pensions Guarantee" means a guarantee entered into on or about 31 January 2014 between the Borrower and Mothercare Pension Trustees Limited and others as trustees of the Mothercare Executive Pension Scheme;

"Permitted Adjustment Event" means a subdivision or reduction of capital of the ordinary share capital of the Borrower or other restructuring of the share capital of the Borrower in order to reduce the nominal value of the Shares to 1 pence per Share, or such lower amount as the Borrower may propose, prior to or effective on the Equity Issuance Effective Date;

"Permitted Company Voluntary Arrangement" means any company voluntary arrangement proposed on or around the date of this Agreement by Mothercare UK Limited, Early Learning Centre Limited or Children's World Limited;

"Permitted Financial Indebtedness" means Financial Indebtedness:

- (A) arising under any of the Finance Documents as in force on the date of this Agreement and subject always to the terms of this Agreement;
- (B) arising under the RCF Finance Documents;

- (C) arising under any Shareholder Loan Agreement;
- (D) arising under a Franchise Partner Financing Arrangement;
- (E) arising under any letter of credit facility, guarantee facility, overdraft facility, hedging arrangement or any other ancillary facility entered into by members of the Group with lenders under the RCF Agreement and which is permitted pursuant to the RCF Agreement;
- (F) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of trade, but not a foreign exchange transaction for investment or speculative purposes;
- (G) of any person acquired by a member of the Group after the date of this Agreement which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased or having its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of three months following the date of acquisition;
- (H) under finance or capital leases of vehicles, plant, equipment or computers, provided that the aggregate capital value of all such items so leased under outstanding leases by members of the Group does not exceed £2,500,000 (or its equivalent in any other currency or currencies) at any time (and provided such finance or capital leases shall not include any lease which, under IFRS used for the audited consolidated financial statements of the Group for the financial year ended 30 March 2017, would be treated as an operating lease);
- (I) not permitted by the preceding paragraphs or as a Permitted Transaction and the outstanding principal amount of which does not exceed £2,500,000 (or its equivalent in any other currency or currencies) in aggregate for the Group at any time; and
- (J) arising between the Borrower and any other member of the Group;

"Permitted Transaction" means:

- (A) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising, under the RCF Finance Documents, the Shareholder Loan Agreements or the RCF Agreement;
- (B) the solvent liquidation or reorganisation of any member of the Group (other than the Borrower) so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group;
- (C) the entry of Children's World Limited into administration following (i) the creditors of Children's World Limited failing to approve the CW CVA at the

relevant creditors' meeting, or (ii) a challenge being made to the CW CVA on the grounds of material irregularity or unfair prejudice and such challenge not having been withdrawn or successfully resolved by 30 September 2018, and the transfer by the administrator of some or all of the assets of Children's World Limited to another member of the Group;

- (D) transactions (other than (i) any sale, lease, license, transfer or other disposal and (ii) the granting or creation of Security or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm's length terms;
- (E) the acquisition of shares for any employee share option trust in effect as at 11 April 2012;
- (F) loans to, capital contributions in or acquisitions of shares issued by the Ukraine Joint Venture in an amount not exceeding £8,000,000 (or its equivalent in any other currency or currencies) in any financial year and £15,000,000 over the life of the Facility;
- (G) any transaction contemplated pursuant to the terms of and documented in a deed of amendment, substitution and flexible apportionment arrangement entered into on or about 31 January 2014 between Mothercare Plc, Mothercare UK Limited and Mothercare Pension Trustees Limited and others as trustees of the Mothercare Executive Pension Scheme and approved by the "Majority Lenders" under the RCF Agreement under a waiver letter between the Borrower and the "Agent" under the RCF Agreement dated 31 January 2014 (including, for the avoidance of doubt, the entry into of the Pensions Guarantee);
- (H) any transaction agreed to by the Lender;
- (I) a Franchise Partner Financing Agreement; or
- (J) any Permitted Company Voluntary Arrangement;

"RCF Agreement" means the credit agreement originally dated 12 May 2003, as amended and restated from time to time, including on 5 May 2017 and on or around the date of this Agreement;

"RCF Finance Documents" has the meaning assigned to "Finance Documents" in the RCF Agreement;

"Redemption Premium" is the amount equal to 10 per cent. of the principal amount outstanding of the Loan at such time;

"Relevant Company Voluntary Arrangement" means each of the Permitted Company Voluntary Arrangements in respect of Mothercare UK Limited and Early Learning Centre Limited;

"Representative" means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

"Senior Debt" means all Liabilities payable or owing by the Borrower under or in connection with the RCF Finance Documents to the lenders in respect of those documents including any such Liabilities that are refinanced from time to time;

"Shareholder Loan Agreements" means the loan agreements entered into between the Borrower and certain shareholders of the Borrower on or about the date hereof in an aggregate amount of £8 million (and each, a **"Shareholder Loan Agreement"**).

"Shares" means ordinary shares in the Borrower;

"Subordinated Debt" means all Liabilities payable or owing by the Borrower under or in connection with the Finance Documents to the Lender;

"Subsidiary" means a subsidiary within the meaning of section 1159 of the Companies Act 2006;

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

"Termination Date" means 30 June 2021;

"Trading Day" means, in respect of the main market of the London Stock Exchange, any day on which such exchange is scheduled to be open for its respective trading sessions;

"Treasury Transaction" means any derivative transaction entered into or in connection with protection against or benefit from fluctuation in any rate or price;

"UKLA" means the UK Listing Authority;

"Ukraine Joint Venture" means the joint venture between Mothercare Finance Limited (30 per cent. interest) and WA Developments International Limited pursuant to a joint venture agreement dated 4 November 2011, whereby the joint venture partners together own Wadicare Limited (incorporated in Cyprus), which owns 100 per cent. of the shares in MB Group LCC (registered in Ukraine);

"Utilisation Date" means the date on which the Loan is to be made;

"Utilisation Request" means a notice substantially in the form set out in Schedule 1 (*Utilisation Request*);

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 or any regulations promulgated thereunder; and

"VWAP" means, for any Trading Day, a price per share of Shares equal to the volume-weighted average price of trades in such Shares on the primary trading market for such Shares for the entirety of such Trading Day as reported by Bloomberg L.P. (or, if Bloomberg is not available for any reason, any successor to, or substitute for, Bloomberg providing trading reports for such shares), without regard to pre-open or afterhours trading outside of any regular trading session for such Trading Day.

1.2 Construction

- (A) Unless a contrary indication appears, any reference in this Agreement to:
- (i) an **"amendment"** includes a supplement, novation, extension (whether of maturity or otherwise), restatement, re-enactment or replacement (however fundamental and whether or not more onerous) and **"amended"** will be construed accordingly;
 - (ii) **"assets"** includes present and future properties, revenues and rights of every description;
 - (iii) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (iv) a **"person"** includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, fund, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;
 - (v) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (vi) any other agreement or instrument is a reference to that other agreement or instrument as amended;
 - (vii) a Clause or Schedule is a reference to a clause of, or schedule to, this Agreement;
 - (viii) a Party or any other person includes its successors in title, permitted assigns and permitted transferees;

(ix) a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation; and

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

(B) Clause and Schedule headings are for ease of reference only.

(C) A Default (including an Event of Default) is "continuing" if it has not been remedied or waived.

1.3 Currency symbols and definitions

"£" and "sterling" denote the lawful currency of the United Kingdom.

1.4 Third Party Rights

(A) Subject to paragraph (B) below, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

(B) Clause 13 (*Subordination*) confers a benefit on lenders in respect of the RCF Finance Documents (each for the purpose of this provision, a "Third Party") and is intended to be enforceable by the Third Party by virtue of Contracts (Rights of Third Parties) Act 1999.

(C) Hogan Lovells International LLP, as external legal counsel to the Lender may rely on and enforce the provisions of clause 15.1 (*Transaction expenses*) by virtue of the Contracts (Rights of Third Parties) Act 1999.

2. THE FACILITY

Subject to the terms of this Agreement, the Lender makes available to the Borrower a sterling term loan facility in an amount equal to the Facility Amount.

3. PURPOSE

The Borrower may apply amounts borrowed by it under the Facility towards general corporate and working capital purposes of the Group.

4. CONDITIONS OF UTILISATION

4.1 Conditions precedent

The Borrower may not deliver a Utilisation Request unless it has provided evidence to the Lender's satisfaction (acting reasonably) that a public announcement has been made or will be made launching the Permitted Company Voluntary Arrangements.

4.2 Further conditions

The Lender will only be obliged to comply with Clause 5.3 (*Lender's obligation to lend*) if on the date of the Utilisation Request and on the proposed Utilisation Date no Default is continuing or would result from the proposed Loan.

5. UTILISATION

5.1 Delivery of a Utilisation Request

A Borrower may utilise the Facility by delivery to the Lender of a duly completed Utilisation Request not later than one Business Day before the proposed Utilisation Date.

5.2 Completion of a Utilisation Request

The Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

- (A) the proposed Utilisation Date is a Business Day within the Availability Period; and
- (B) the amount of the proposed Loan is equal to the Facility Amount.

5.3 Lender's obligation to lend

The Lender shall make the Loan available by no later than the Utilisation Date.

5.4 Cancellation of Commitment

The Facility Amount which, at that time, is unutilised shall be immediately cancelled at the end of the Availability Period.

6. REPAYMENT

Unless prepaid pursuant to Clause 7 (*Prepayment*), the Borrower shall repay the Loan and the applicable Redemption Premium on the Termination Date.

7. PREPAYMENT

7.1 Lender Conversion Option

(i) Subject to the satisfaction of the Conversion Conditions; (ii) notwithstanding Clause 13 (*Subordination*); and (iii) the Lender serving a Conversion Notice on the Borrower at least 30 days prior to the applicable Conversion Date, the Lender shall have a right on each 31 May or 30 November in each year whilst any Loan is outstanding, to convert the outstanding principal amount of the Loan together with any accrued interest and the

applicable Redemption Premium into fully paid Conversion Shares at the Conversion Price on the Conversion Date.

7.2 Conversion or prepayment of the Loan following a Change of Control

- (A) Notwithstanding Clause 13 (*Subordination*), if any person or group of persons acting in concert (as defined in the Code) gains control (as defined in the Code) of the Borrower (a "Change of Control"), the Lender shall have a right to:
- (i) subject to satisfaction of the Conversion Conditions, serve a Conversion Notice on the Borrower, to convert the outstanding principal amount of the Loan together with accrued interest (if any) and the applicable Redemption Premium into fully paid Conversion Shares at the Conversion Price on the Conversion Date; or
 - (ii) require the Borrower immediately to repay the outstanding Loan with accrued interest (if any) and the applicable Redemption Premium on the date that the Change of Control takes effect provided that there shall be no repayment of any amounts to the Lender pursuant to this Clause 7.2(A)(ii) until the Senior Debt has been unconditionally and irrevocably paid and discharged in full.
- (B) The Borrower shall promptly notify the Lender in writing upon becoming aware of a proposed Change of Control specifying (to the best of its knowledge):
- (i) the terms and prospective date of the proposed Change of Control;
 - (ii) the number of Conversion Shares to be issued in the event of the Change of Control; and
 - (iii) reasonable supporting evidence and methodology to support its arithmetic calculations of the number of Conversion Shares.

7.3 Conversion Conditions

Any conversion of the outstanding Loan provided for in this Agreement shall not occur unless the following conditions are satisfied:

- (A) the shareholders of the Borrower have approved the Permitted Adjustment Event by way of resolution of the shareholders;
- (B) the Borrower has effected the Permitted Adjustment Event;
- (C) the shareholders of the Borrower have approved by way of resolution of the shareholders the issue and allotment of the Conversion Shares to the Lender on a non-pre-emptive basis and in accordance with the terms of this Agreement;

- (D) the shareholders of the Borrower have approved any related party transaction arising out of this Agreement (as defined in Listing Rule 11.1.5) by way of resolution of the shareholders as required pursuant to Listing Rule 11 or if not required, the Borrower has obtained written confirmation from an approved sponsor for the purposes of Listing Rule 11 confirming that neither the entry into or performance of the Agreement (including the issue and allotment of Conversion Shares to any lender) will constitute a related party transaction requiring shareholder approval pursuant to Listing Rule 11; and
- (E) either, (i): the Borrower has provided confirmation in writing to the Lender that the relevant issue and allotment of Conversion Shares to the Lender, and the admission of such Conversion Shares to the official list of the UKLA and to trading on the main market of the London Stock Exchange, will not require preparation of a UKLA-approved prospectus under applicable law and regulation; or (ii) in connection with the same, the Borrower has prepared any required UKLA-approved prospectus in compliance with applicable law and regulation,

together the "Conversion Conditions".

7.4 Procedures on Conversion

- (A) Pursuant to Clauses 7.1 or 7.2 and subject to Clause 7.3 (*Conversion Conditions*), the Lender may, by written notice, notify the Borrower that the entire principal amount of the Loan together with any accrued interest and the applicable Redemption Premium shall be converted into fully paid shares of the Borrower at the Conversion Price on the relevant Conversion Date.
- (B) Any written notice given by the Lender to the Borrower to convert the Loan into the Conversion Shares pursuant to Clause 7.6 (*Issuance of Conversion Shares*) shall be a "Conversion Notice" and shall include confirmation of:
 - (i) the number of Conversion Shares to be issued; and
 - (ii) the proposed Conversion Date.
- (C) A Conversion Notice will be deemed to constitute an application by the Lender to subscribe for the number of Conversion Shares to be issued on the terms and conditions of the Articles.
- (D) If the Borrower has given notice to the Lender pursuant to Clause 7.2(B), and it becomes apparent to the Borrower that the Change of Control is not to take effect, the Borrower shall give notice to the Lender to that effect. Immediately upon the Borrower giving such notice to the Lender, any Conversion Notice given by the Lender pursuant to Clause 7.4(A) in connection with such Change of Control shall be deemed to be withdrawn by the Lender and no longer in effect.

- (E) The Borrower will use all reasonable endeavours to procure prompt satisfaction of the Conversion Conditions (including in relation to the production of any UKLA-approved prospectus required to allow the Conversion Shares to be admitted to the official list and admitted to trading on the main market of the London Stock Exchange). Furthermore, the Borrower will ensure that:
- (i) any resolution in relation to the allotment, issue and/or disapplication of pre-emption rights passed by the Borrower's shareholders authorising an Equity Financing is subject to the authorisation of the issue, allotment and disapplication of pre-emption rights of such number of Conversion Shares required to satisfy in full, without the need for the passing of any further shareholder resolutions, the Borrower's obligation to issue and allot such number of Conversion Shares at the Conversion Price pursuant to Clauses 7.1 or 7.2 at the time of that Equity Financing ("**Sufficient Authority**"); and
 - (ii) it maintains Sufficient Authority until any further Equity Financing.
- (F) The Borrower must not do anything or encourage another person to do anything which might reasonably be expected to delay or hinder the satisfaction of the Conversion Conditions.

7.5 Adjustment to number of Conversion Shares

- (A) This Clause 7.5 will apply in circumstances where, before the Conversion Date, an Adjustment Event occurs.
- (B) No later than ten Business Days before the Adjustment Event is to occur the Borrower shall inform the Lender in writing as soon as reasonably practicable after the relevant board meeting or general meeting of shareholders (whichever is earlier) has resolved to implement the Adjustment Event specifying the prospective date of the Adjustment Event and the proposed terms of it.
- (C) The Borrower and Lender shall in good faith agree the adjustments to the number and nominal value of the Shares to be converted pursuant to Clauses 7.1 (*Lender Conversion Option*) or Clause 7.2 (*Conversion or prepayment of the Loan following a Change of Control*) which they consider to be necessary so that, after such adjustment and on conversion, the Lender shall be entitled to receive the same proportion of the entire fully diluted issued share capital of the Borrower carrying the same proportion of votes exercisable at a general meeting of shareholders and the same entitlement to participate in distributions of the Borrower, in each case, as nearly as practicable as would have been the case had no Adjustment Event occurred (and making such reduction or increase as is necessary on the issue and allotment of the Conversion Shares).

- (D) If, the Borrower and the Lender fail to reach an agreement by the date that is five Business Days before the Adjustment Event is to occur, the matter shall be referred to a firm of chartered accountants, agreed between the parties, within three Business Days, or if they fail to reach agreement within that period, to a firm of chartered accountants appointed by the President of the Institute of Chartered Accountants in England and Wales on the application of either party (the "Expert").
- (E) The Borrower and the Lender shall cause the Expert, as soon as practicable, to determine the matter which has been referred to the Expert for determination and in any event, no later than five Business Days after the date the matter is referred to the Expert. The Expert shall provide the parties with calculations (together with reasonable supporting evidence and methodology) to support its determination of the adjustment. In the absence of manifest error, such determination shall be final and binding on all parties. The Expert shall act as expert and not as arbitrator. The cost of the Expert determination shall be born equally by the Borrower and the Lender.

7.6 Issuance of Conversion Shares

- (A) On the Conversion Date, the Borrower shall:
- (i) allot and issue to the Lender the number of Conversion Shares calculated in accordance with Clause 7.6(B);
 - (ii) enter the Lender's name in the register of members as the holder of the Conversion Shares issued to it; and
 - (iii) as instructed by the Lender, either:
 - (1) cause there to be credited such aggregate number of uncertificated Conversion Shares to which the Lender shall be entitled to the Lender's or its designee's CREST stock account or its balance account with such electronic or book entry delivery system; or
 - (2) issue and deliver to an express courier service for guaranteed third day service to the Lender, a share certificate in respect of the Conversion Shares showing the Lender as holder.
- (B) The number of Conversion Shares to be issued on a conversion under Clauses 7.1 (*Lender Conversion Option*) or Clause 7.2 (*Conversion or prepayment of the Loan following a Change of Control*) shall be calculated as follows:

$$\text{Number of Conversion Shares} = \frac{\text{Outstanding principal amount of the Loan} + \text{any accrued interest} + \text{Redemption Premium}}{\text{Redemption Premium}}$$

- (C) Each Conversion Share shall be issued and allotted at such premium to reflect the difference between the nominal amount of the Conversion Share and the outstanding principal amount of the Loan together with accrued interest (if any) and the Redemption Premium converted into one Conversion Share.
- (D) The Conversion Shares shall be credited as fully paid and rank pari passu with Shares of the same class in issue on the relevant Conversion Date and shall carry the right to receive all dividends and other distributions after the Conversion Date.
- (E) The entitlement of the Lender to a fraction of a Share shall be rounded up to the nearest whole number of Conversion Shares.
- (F) The Lender shall promptly provide to the Borrower any document or information reasonably required for the purpose of the issuance and registration of the Conversion Shares.

7.7 Non-admission to trading

In the event that the Conversion Shares are not admitted to the official list of the UKLA and admitted to trading on the main market of the London Stock Exchange within ten Business Days after the date of issue of such Shares, the Lender may issue a notice to require the Borrower to immediately acquire, and the Borrower shall so acquire, such Shares at the arithmetic mean of the VWAP of the Shares for each of the thirty Trading Days ending on (and including) the day that is the Trading Day immediately prior to the date on which the Lender issues a notice pursuant to this Clause 7.7, provided that the Borrower shall not be permitted or required to make an acquisition of the Conversion Shares pursuant to this Clause 7.7 until the Senior Debt has been unconditionally and irrevocably paid and discharged in full.

7.8 Cancellation of Loan

Upon registration of the Lender in the Borrower's share register as holder of the Conversion Shares pursuant to Clause 7.6 (*Issuance of Conversion Shares*), the Loan shall be deemed repaid in full in its entirety together with the Redemption Premium without any further action by either Party.

7.9 Restrictions

- (A) Any notice of prepayment given by the Borrower under this Clause 7 (*Prepayment*) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant prepayment is to be made and the amount of that prepayment.

- (B) Except for the Redemption Premium and unless provided otherwise, any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and without premium or penalty.
- (C) The Borrower may not reborrow any part of the Facility which is repaid.
- (D) The Borrower may not repay or prepay all or any part of the Loan except at the times and in the manner expressly provided for in this Agreement.

8. INTEREST, INTEREST PERIODS AND REDEMPTION PREMIUM

8.1 Calculation of interest

The rate of interest on the Loan is a fixed rate of 0.8333 per cent. per month of the outstanding Loan or such other rate as may be agreed between the Lender and the Borrower from time to time.

8.2 Payment of interest

- (A) Interest on the Loan shall accrue and be payable on a monthly basis.
- (B) Interest will be computed: (i) from and including the date of this Agreement until and including the last day of the calendar month in which the date of this Agreement falls; and (ii) thereafter, from and including the first day of each subsequent calendar month until and including the earlier of the last day of such calendar month or if applicable, the Termination Date (each, an "Interest Period").
- (C) At the end of each Interest Period, the interest accrued on the Loan from time to time shall be automatically capitalised and added to the principal amount of the Loan.
- (D) Such accrued interest shall, after being so capitalised, be treated as part of the principal amount of the Loan and shall bear interest in accordance with this Clause 8 (*Interest, Interest Periods*).
- (E) If all or part of the Loan is prepaid prior to the end of an Interest Period, any accrued and unpaid interest on such portion of the Loan that is prepaid that has not been so capitalised will be payable in cash or converted into Conversion Shares (as applicable) in accordance with the terms of this Agreement on the date of such prepayment.

8.3 Redemption Premium

Upon any principal of the Loan being repaid or prepaid, the Borrower shall pay to the Lender the Redemption Premium on such amount of principal outstanding.

9. TAX GROSS UP AND INDEMNITIES

9.1 Tax gross-up

- (A) All sums payable by the Borrower will be paid without any withholding or deduction whatsoever unless required by law. If any withholding or deduction from a payment is required by law, the Borrower agrees (a) to increase the amount of the payment so that the Lender will be entitled to receive the same amount as it would have received if there had been no withholding or deduction and (b) to supply the Lender promptly with evidence satisfactory to it that the Borrower has accounted to the relevant authority for the withholding or deduction.
- (B) By entering into this Agreement, the Lender represents that it is a company falling within the charge to corporation tax for United Kingdom tax purposes in respect of any interest payments to be made to it under the terms of this Agreement, and shall promptly notify the Borrower in the event that this ceases to be the case.

9.2 Stamp Taxes

The Borrower shall pay and, within three Business Days of demand, indemnify the Lender against any cost, loss or liability that the Lender incurs in relation to all stamp duty, registration and other similar Taxes payable in the United Kingdom in respect of this Agreement.

9.3 Value added tax

- (A) All consideration expressed to be payable under this Agreement by the Borrower to the Lender shall be deemed to be exclusive of any amounts in respect of VAT. If VAT is chargeable on any supply made by the Lender to the Borrower under this Agreement, the Borrower shall pay to the Lender (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT (against delivery of an appropriate VAT invoice).
- (B) Where this Agreement requires the Borrower to reimburse the Lender for any costs or expenses, that obligation shall be deemed to extend to all amounts in respect of VAT incurred by the Lender in respect of the costs or expenses to the extent that the Lender reasonably determines that neither it nor any other member of any group of which it is a member for VAT purposes is entitled to credit or repayment from the relevant taxing authority in respect of the VAT.

10. REPRESENTATIONS

The Borrower makes the representations and warranties set out in this Clause 10 (*Representations*) to the Lender on the date of this Agreement.

10.1 Status

- (A) It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (B) It has the power to own its assets and carry on its business as it is being conducted.

10.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations.

10.3 Non-conflict with other obligations

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

- (A) any law or regulation applicable to it;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

10.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated by this Agreement.

10.5 Validity and admissibility in evidence

All Authorisations required or desirable:

- (A) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents; and
- (B) to make the Finance Documents admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect.

10.6 Governing law and enforcement

- (A) The choice of the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation.

- (B) Any judgment obtained in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

10.7 No Default

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

10.8 No misleading information

Save as disclosed in writing to the Lender, all written information provided by any member of the Group to the Lender in connection with this Agreement was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect.

10.9 RCF Agreement

The final repayment date under the RCF Agreement is 31 December 2020.

11. GENERAL UNDERTAKINGS

11.1 Compliance with laws

The Borrower shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

11.2 Pari passu ranking

The Borrower will ensure that at all times any unsecured and unsubordinated claims of the Lender against it under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by law applying to companies generally.

11.3 Negative pledge

In this Clause 11.3, "Quasi-Security" means an arrangement or transaction described in Clause 11.3(B).

- (A) The Borrower shall not and shall ensure that no other member of the Group will create or permit to subsist any Security over any of its assets.
- (B) The Borrower shall not and shall ensure that no other member of the Group will:
- (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Borrower or any other member of the Group;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect,
- in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (C) Clauses 11.3(A) and 11.3(B) do not apply to any Security or (as the case may be) Quasi-Security, listed below:
- (i) any Security or Quasi-Security created pursuant to or in connection with the RCF Finance Documents;
 - (ii) any Security or Quasi-Security created under a Franchise Partner Financing Agreement as a consequence of the operation of the set off mechanism under that arrangement whereby the amounts outstanding thereunder against outstanding receivables;
 - (iii) any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group but only so long as (i) such arrangement does not permit credit balances of "Borrowers" under the RCF Agreement to be netted or set off against debit balances of members of the Group which are not "Borrowers" under the RCF Agreement and (ii) such arrangement does not give rise to other Security over the assets of "Borrowers" under the RCF Agreement in support of liabilities of members of the Group which are not "Borrowers" under the RCF Agreement;
 - (iv) any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by it

which constitutes Permitted Financial Indebtedness, excluding any Security or Quasi-Security under a credit support arrangement;

- (v) any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any member of the Group;
- (vi) any Security or Quasi-Security over or affecting any asset acquired by a member of the Group after the date of this Agreement if:
 - (1) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
 - (2) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by a member of the Group; and
 - (3) the Security or Quasi-Security is removed or discharged within six months of the date of acquisition of such asset;
- (vii) any Security or Quasi-Security over or affecting any asset of any company which becomes a member of the Group after the date of this Agreement, where the Security or Quasi-Security is created before the date on which that company becomes a member of the Group, if:
 - (1) the Security or Quasi-Security was not created in contemplation of the acquisition of that company;
 - (2) the principal amount secured has not increased in contemplation of or since the acquisition of that company; and
 - (3) the Security or Quasi-Security is removed or discharged within six months of that company becoming a member of the Group;
- (viii) any Security or Quasi-Security entered into pursuant to any Finance Document;
- (ix) any Security or Quasi-Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any member of the Group;
- (x) Security or Quasi-Security arising automatically by operation of law in favour of any governmental authority in respect of Tax;

- (xi) any Security or Quasi-Security arising in respect of rent deposit arrangements entered into by any member of the Group as security for rent at any property of which a member of the Group is a tenant, provided that such rent deposits do not exceed an aggregate amount of £1,000,000 (or its equivalent in any other currency or currencies) at any time;
- (xii) any Security or Quasi-Security (in respect of any asset other than intellectual property) securing indebtedness the principal amount of which at any time, when aggregated with:
 - (1) the principal amount of any other indebtedness which at that time has the benefit of Security given by any member of the Group other than any permitted under Clause 11.3(C)(i) to 11.3(C)(xi) (inclusive); and
 - (2) the aggregate amount of all indebtedness raised by members of the Group under any arrangement contemplated by Clause 11.3(B),

does not exceed £2,500,000 (or its equivalent in any other currency or currencies);
- (xiii) any Security or Quasi-Security which is a Permitted Transaction; and
- (xiv) Security or Quasi Security expressly permitted in writing by the Lender.

11.4 No Financial Indebtedness

- (A) Except as permitted under Clause 11.4(B), the Borrower shall not and shall procure that no member of the Group will incur or allow to remain outstanding any Financial Indebtedness.
- (B) Clause 11.4(A) does not apply to Financial Indebtedness which is:
 - (i) Permitted Financial Indebtedness; or
 - (ii) a Permitted Transaction.

11.5 Conversion

The Borrower will:

- (A) not in any way modify the rights attaching to the Shares with respect to voting, dividends or liquidation nor issue any other class of equity share capital carrying any rights which are more favourable than such rights attaching to the Shares; and

- (B) not take any action which would result in an increase in the nominal value of the Shares above the Conversion Price in effect from time to time.

11.6 Admission to trading of the Conversion Shares

The Borrower will use all reasonable endeavours to have the Conversion Shares admitted to the official list of the UKLA and admitted to trading on the main market of the London Stock Exchange.

11.7 Information

- (A) Promptly on request, the Borrower shall supply to the Lender any information as the Lender may reasonably request from time to time.
- (B) The Borrower shall notify the Lender of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (C) Promptly upon a request by the Lender, the Borrower shall supply to the Lender a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

11.8 Director appointment

- (A) For the purposes of this Clause 11.8 only:
 - (i) **"Relevant Shareholder Loan Agreements"** means the loan agreements entered into on or about the date hereof between the Borrower and each of the Lender, 1798 Volantis Fund Ltd acting by Lombard Odier Asset Management (USA) Corp and LMAP Epsilon Limited acting by Lombard Odier Asset Management (USA) Corp; and
 - (ii) **"Relevant Shareholder Lenders"** means each of the Lender, 1798 Volantis Fund Ltd acting by Lombard Odier Asset Management (USA) Corp and LMAP Epsilon Limited acting by Lombard Odier Asset Management (USA) Corp.
- (B) If Mr. Clive Whiley ceases to be a director of the Borrower at any time prior to the Termination Date of this Agreement, and the Relevant Shareholder Lenders at that time hold at least 5 per cent. in aggregate of the voting ordinary shares of the Borrower, then Relevant Shareholder Lenders holding at least 51 per cent. in aggregate of the facility amount made available under the Relevant Shareholder Loan Agreements shall be entitled to nominate a single person to be appointed as a director of the Borrower.
- (C) If at any time the Relevant Shareholder Lenders in aggregate cease to own at least 5 per cent. of the voting ordinary shares of the Borrower, or the person

nominated by the Relevant Shareholder Lenders becomes disqualified from acting as a director, or the appointment of that single person as a director of the Borrower ceases to be in compliance with applicable law and regulation or the Articles, the person nominated by the Relevant Shareholder Lenders shall be required to resign and shall automatically vacate office.

- (D) Where the person nominated by the Relevant Shareholder Lenders vacates office pursuant to paragraph (C) but the Relevant Shareholder Lenders continue to hold 5 per cent. in aggregate of the voting ordinary shares of the Borrower, the Relevant Shareholder Lenders shall be entitled to nominate another single person to be appointed as a director of the Borrower and the Borrower shall be obliged to appoint such person (save where such person is disqualified from so acting and subject to such appointment being in compliance with the applicable law and regulation and the Articles).

12. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 12 (*Events of Default*) is an Event of Default save for Clause 12.8 (*Acceleration*).

12.1 Non-payment

The Borrower does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

- (A) its failure to pay is caused by:
- (i) administrative or technical error; or
 - (ii) a Disruption Event, and
- (B) payment is made within three Business Days of its due date.

12.2 Other obligations

- (A) The Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 12.1 (*Non-payment*)).
- (B) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 15 Business Days of the earlier of the Lender giving notice to the Borrower or the Borrower becoming aware of the failure to comply.

12.3 Insolvency

- (A) The Borrower is unable or admits inability to pay its debts as they fall due or is deemed to be insolvent under applicable law, or suspends making payments on any of its debts.

- (B) A moratorium is declared in respect of indebtedness of any member of the Group (other than in accordance with any Permitted Company Voluntary Arrangement). If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.
- (C) This Clause 12.3 shall not apply where the relevant circumstance under (A) or (B) above has arisen by reason of any Permitted Transaction.

12.4 Insolvency proceedings

Any corporate action, legal proceedings or other procedure or step is taken (including the making of an application, the presentation of a petition, the filing or service of a notice or the passing of a resolution) in relation to:

- (A) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower;
- (B) a composition, compromise, assignment or arrangement with any creditor of the Borrower;
- (C) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect the Borrower or any of its assets; or
- (D) enforcement of any Security over any assets of the Borrower, or any analogous procedure or step is taken in any jurisdiction.

This Clause 12.4 shall not apply to:

- (A) any step or procedure contemplated by any Permitted Transaction; or
- (B) any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement.

12.5 Creditors' process

- (A) Any expropriation, attachment, sequestration, distress or execution affects any material asset or assets of the Borrower having an aggregate value of £2,500,000 or more and is not discharged within 14 days.
- (B) This Clause 12.5 shall not apply where the relevant circumstance under paragraph (A) above has arisen by reason of any Permitted Transaction.

12.6 Unlawfulness

- (A) It is or becomes unlawful for the Borrower to perform any of its obligations under the Finance Documents.
- (B) Any obligation or obligations of the Borrower under any Finance Documents are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Lender under the Finance Documents.
- (C) Any Finance Document ceases to be in full force and effect or is alleged by the Borrower to be ineffective.

12.7 Repudiation

The Borrower rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document or evidences in writing an intention to rescind or repudiate a Finance Document.

12.8 Cross default

- (A) Any Financial Indebtedness of the Borrower is not paid when due nor within any originally applicable grace period.
- (B) Any Financial Indebtedness of the Borrower is declared to be or otherwise becomes due and payable before its specified maturity as a result of an event of default (however described).
- (C) Any commitment for any Financial Indebtedness of the Borrower is cancelled or suspended by a creditor of the Borrower as a result of an event of default (however described).
- (D) Any creditor of the Borrower becomes entitled to declare any Financial Indebtedness of the Borrower due and payable before its specified maturity as a result of an event of default (however described).
- (E) No Event of Default will occur under this clause 12.8 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (A) to (D) above is less than £2,500,000 (or its equivalent in any other currency or currencies).

12.9 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing, the Lender may by notice to the Borrower:

- (A) declare that all or part of the Loan and the Redemption Premium, together with accrued interest, and all other amounts accrued or outstanding under the

Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable in cash; and/or

- (B) declare that all or part of the Loan is payable on demand, whereupon they shall immediately become payable on demand by the Lender.

13. SUBORDINATION

13.1 Subordination

Following an Event of Default which is continuing, all Subordinated Debt will be subordinate in right of payment to the Senior Debt and payment of any amount of the Subordinated Debt will be conditional upon the Borrower having irrevocably paid in full all of the Senior Debt.

13.2 Enforcement by the Lender

From the date of this Agreement until the date on which the Senior Debt has been unconditionally and irrevocably paid and discharged in full, the Lender must not:

- (A) accelerate any of the Subordinated Debt or otherwise declare any of the Subordinated Debt prematurely due and payable;
- (B) enforce the Subordinated Debt by execution or otherwise;
- (C) initiate or support or take any steps with a view to:
 - (i) any insolvency, liquidation, reorganisation, administration or dissolution proceedings; or
 - (ii) any voluntary arrangement or assignment for the benefit of creditors; or
 - (iii) any similar proceedings,involving the Borrower, whether by petition, convening a meeting, voting for a resolution or otherwise;
- (D) bring or support any legal proceedings against the Borrower or any of its Subsidiaries; or
- (E) otherwise exercise any remedy or set-off or counterclaim for the recovery of the Subordinated Debt.

13.3 Continuing subordination

The subordination provisions in this Clause 13 constitute a continuing subordination and will benefit the ultimate balance of all of the Senior Debt, regardless of any intermediate payment or discharge in whole or in part.

14. ASSIGNMENT

14.1 Assignment and transfer by the Lender

Subject to Clause 14.2, the Lender may:

- (A) assign any of its rights or transfer any of its rights or obligations under any Finance Document to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets; and
- (B) obtain a release by the Borrower from the obligations owed by it under the Finance Documents.

14.2 Conditions of assignment

- (A) Prior to 31 December 2018, the Lender may not assign any of its rights or transfer any of its rights or obligations under any Finance Document unless the assignment is made at a time when an Event of Default is continuing
- (B) After 31 December 2018, the consent of the Borrower is required for an assignment by the Lender, unless the assignment is:
 - (i) to an Affiliate of the Lender (or a related fund or a fund managed by the same entity); or
 - (ii) made at a time when an Event of Default is continuing.
- (C) The consent of the Borrower to an assignment and/or transfer must not be unreasonably withheld or delayed.

14.3 Assignment and transfer by the Borrower

The Borrower may not assign any of its rights or transfer any of its rights or obligations under any Finance Document.

15. COSTS AND EXPENSES

15.1 Transaction expenses

Subject to the Lender providing the Borrower with written invoices, the Borrower shall, promptly on demand, pay the Lender the amount of all costs and expenses (including legal fees provided that any legal fees for all activities relating to all Shareholder Loan Agreements and related documents are capped at £30,000 plus VAT) reasonably incurred by it in connection with the negotiation, preparation, printing and execution of:

- (A) this Agreement; and
- (B) any other Finance Documents executed after the date of this Agreement.

The Borrower agrees to pay in favour of Hogan Lovells International LLP the fees of Hogan Lovells International LLP provided that such fees are within the cap mentioned above.

15.2 Enforcement and preservation costs

The Borrower shall, within three Business Days of demand, pay the Lender amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under, any Finance Document.

16. PAYMENT MECHANICS

16.1 Payments

- (A) On each date on which a Party is required to make a payment under the Finance Documents (the "**Paying Party**"), it shall make the same available to the other Party (the "**Receiving Party**") for value on the due date at the time and in such funds specified by the Receiving Party as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (B) Payment shall be made to such account with such bank as Receiving Party specifies to the Paying Party.

16.2 No set-off by Borrower

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

16.3 Business Days

- (A) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (B) During any extension of the due date for payment of any principal or any sum due and payable but unpaid by the Borrower under this Agreement, interest is payable on the principal or unpaid sum at the rate payable on the original due date.

16.4 Disruption to payment systems

If either Party determines that a Disruption Event has occurred, that Party shall consult in good faith with the other Party with a view to agreeing such changes to the operation or administration of the Facility as the Parties may deem necessary in the circumstances.

17. NOTICES

17.1 Communications in writing

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

17.2 Addresses

The address and email address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is that identified with its name below or any substitute address, email address or department or officer as the Party may notify to the others by not less than five Business Days' notice:

The Borrower:

Address: Cherry Tree Road, Watford, Hertfordshire WD24 6SH
Attention: Alice Darwall
Email: alice.darwall@mothercare.com

The Lender: **Blake Holdings Limited**

Address: Floor 1 Liberation Station
The Esplanade
St Helier
Jersey
JE2 3AS

Attention: Sarossa Plc.
Email: jsutcliffe@ora.je

17.3 Delivery

- (A) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
- (i) if by way of letter, when it has been left at the relevant address or two Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address; or
 - (ii) if by way of email, when actually received in readable form,
- and, if a particular department or officer is specified as part of its address details provided under Clause 17.2 (*Addresses*), if addressed to that department or officer.
- (B) Any communication or document made or delivered to the Borrower in accordance with this Clause 17.2 (*Addresses*) will be deemed to have been made or delivered to the Borrower.

18. PARTIAL INVALIDITY

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

19. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in the Finance Documents are cumulative and not exclusive of any rights or remedies provided by law.

20. CONFIDENTIALITY

20.1 Confidentiality

The Lender agrees to keep all Confidential Information confidential and not disclose it to anyone, save to the extent permitted by Clause 20.2 (*Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

20.2 Disclosure of Confidential Information

The Lender may disclose:

- (A) to any of its Affiliates and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as the Lender shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (A) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information; or
- (B) to any person:
 - (i) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
 - (ii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes; or
 - (iii) with the consent of the Borrower,

provided that in relation to paragraphs (i) and (ii), the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Lender, it is not practicable so to do in the circumstances.

20.3 Entire agreement

This Clause 20 constitutes the entire agreement between the Parties in relation to the obligations of the Lender under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

20.4 Inside information

The Lender acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing

and market abuse and the Lender undertakes not to use any Confidential Information for any unlawful purpose.

20.5 Notification of disclosure

The Lender agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (A) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (i) of Clause 20.2(B) (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (B) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 20.

20.6 Continuing obligations

The obligations in this Clause 20 are continuing and, in particular, shall survive and remain binding on the Lender for a period of twelve months from the earlier of:

- (A) the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (B) the Conversion Date.

21. COUNTERPARTS

Each Finance Document 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 the Finance Document.

22. GOVERNING LAW

This Agreement is governed by English law. Any matter, claim or dispute arising out of or in connection with this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with English law.

23. JURISDICTION

- (A) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with any Finance Document (including a dispute regarding the existence, validity or termination of any Finance Document).

- (B) The English courts are the most appropriate and convenient courts to settle any such dispute in connection with any Finance Document. The Borrower agrees not to argue to the contrary and waives objection to those courts on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with any Finance Document.

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

**Schedule 1
Utilisation Request**

From: Mothercare plc

To: [•]

Dated: [•]

Dear Sirs

**Mothercare plc
Unsecured Convertible Credit Facility Agreement dated [•] 2018 (the "Agreement")**

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request. References to Clauses are to clauses of the Agreement.
2. We wish to borrow a Loan on the following terms:

Proposed Utilisation Date: [] (or, if that is not a Business Day, the next Business Day)
3. The proceeds of this Loan should be credited to *[account]*.
4. We confirm that each condition specified in Clause 4.2 (*Further conditions*) is satisfied on the date of this Utilisation Request.
5. As at the date of this Utilisation Request, up to £10 million is capable of being drawn under a Franchise Partner Financing Agreement (with the overall amount being determined by reference to receivables invoiced and outstanding from the relevant franchise partner(s) at the particular time) and there are no material conditions to such utilisation outstanding, aside from customary repeating representations.
6. We confirm that we have delivered a utilisation request or will deliver a utilisation request on or about the date hereof under all other Shareholder Loan Agreements available to us for the full amount made available thereunder and with the same utilisation date as the proposed Utilisation Date for the Loan requested in this Utilisation Request.

This Utilisation Request is irrevocable.

Yours faithfully

.....
authorised signatory for

Mothercare plc

SIGNATURES

The Borrower

SIGNED BY

Glyn Hughes
for and on behalf of
MOTHERCARE PLC

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A large black rectangular redaction covers the signature of the lender.

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The Lender

SIGNED BY

for and on behalf of
BLAKE HOLDINGS LIMITED

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SIGNATURES

The Borrower

SIGNED BY

Glyn Hughes
for and on behalf of
MOTHERCARE PLC

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The Lender

SIGNED BY

for and on behalf of
BLAKE HOLDINGS LIMITED

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SIGNATURES

The Borrower

SIGNED BY

for and on behalf of
MOTHERCARE PLC

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The Lender

SIGNED BY

RICHARD GRIFFITHS

for and on behalf of
BLAKE HOLDINGS LIMITED

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