



Terms and Conditions

Polygon AB (publ)

Initial Notes Issue of up to EUR 210,000,000

Senior Secured Fixed Rate Notes

ISIN: SE0010830950

Dated 20 February 2018

Other than the registration of the Notes under Swedish law, no action is being taken in any jurisdiction that would or is intended to permit a public offering of the Notes or the possession, circulation or distribution of this document or any other material relating to the Issuer or the Notes in any jurisdiction where action for that purpose is required. Persons into whose possession this document comes are required by the Issuer to inform themselves about, and to observe, any applicable restrictions.

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1. Definitions and Construction

1.1 Definitions

In these terms and conditions (these "**Terms and Conditions**"):

"**Account Operator**" means a bank or other party duly authorised to operate as an account operator pursuant to the Financial Instruments Accounts Act and through which a Noteholder has opened a Securities Account in respect of its Notes.

"**Accounting Principles**" means the international financial reporting standards (IFRS) within the meaning of Regulation 1606/2002/EC (or as otherwise adopted or amended from time to time).

"**Additional Guarantor**" means a Group Company which becomes an Additional Guarantor pursuant to Clause 13.5 (*Additional Guarantors*).

"**Adjusted Nominal Amount**" means the Total Nominal Amount less the Nominal Amount of all Notes owned by a Group Company or an Affiliate, irrespective of whether such Person is directly registered as owner of such Notes.

"**Advance Purchase Agreements**" means (a) an advance or deferred purchase agreement if the agreement is in respect of the supply of assets or services and payment is due not more than 90 days after the date of supply, or (b) any other trade credit incurred in the ordinary course of business.

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

"**Agency Agreement**" means the agency agreement entered into between the Agent and the Issuer on or about the First Issue Date regarding, inter alia, the remuneration payable to the Agent.

"**Agent**" means Intertrust (Sweden) AB, Swedish Reg. No. 556625-5476, or another party replacing it, as Agent, in accordance with these Terms and Conditions.

"**Applicable Premium**" means the higher of:

- (a) 2.000 per cent. of the Nominal Amount; and
- (b) an amount equal to:
 - (i) 102.000 per cent. of the Nominal Amount; plus
 - (ii) all remaining scheduled Interest Payments on the Notes to, but not including, the First Call Date,

discounted (for the time period starting from the date the relevant Notes are redeemed to the First Call Date) using a discount rate equal to the German Government Note Rate with a maturity as close as possible to the First Call Date plus 0.500 per cent; minus

- (iii) accrued but unpaid Interest up to the relevant Redemption Date; and
- (iv) the Nominal Amount.

"Borrowings" means, as at any particular time, the aggregate outstanding principal, capital or nominal amount (and any fixed or minimum premium payable on prepayment or redemption) of Financial Indebtedness (excluding any Financial Indebtedness under pension liabilities, any Shareholder Loans, Investor Documents and any loan with PIK interest which has a final maturity date which occurs after the Final Maturity Date and which is subordinated to the Notes and any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price) of Group Companies (excluding any Financial Indebtedness between Group Companies).

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

"Business Day Convention" means the first following day that is a Business Day.

"Call Option" means the Issuer's right to redeem outstanding Notes in full in accordance with Clause 9.3 (*Voluntary Total Redemption*).

"Call Option Amount" means:

- (a) 100.000 per cent. of the Nominal Amount plus the Applicable Premium, together with accrued but unpaid interest, if the Call Option is exercised anytime before the First Call Date;
- (b) 102.000 per cent. of the Nominal Amount, together with accrued but unpaid interest, if the Call Option is exercised on or after the First Call Date to, but not including, the date falling 36 months after the First Issue Date;
- (c) 101.000 per cent. of the Nominal Amount, together with accrued but unpaid interest, if the Call Option is exercised on or after the date falling 36 months after the First Issue Date to, but not including, the date falling 48 months after the First Issue Date;
- (d) 100.500 per cent. of the Nominal Amount, together with accrued but unpaid interest, if the Call Option is exercised on or after the date falling 48 months after the First Issue Date to, but not including, the date falling 54 months after the First Issue Date;

- (e) 100.000 of the Nominal Amount, together with accrued but unpaid interest, if the Call Option is exercised on or after the date falling 54 months after the First Issue Date to, but not including, the Final Maturity Date.

"**Cash**" means, at any time, cash in hand or at bank and (in the latter case) credited to an account in the name of a Group Company with a bank and to which a Group Company is alone (or together with other Group Companies) beneficially entitled and for so long as:

- (a) that cash is repayable within five (5) days after the relevant date of calculation;
- (b) repayment of that cash is not contingent on the prior discharge of any other indebtedness of any Group Company or of any other Person whatsoever or on the satisfaction of any other condition;
- (c) there is no Security over that cash except for any Permitted Security constituted by a netting or set-off arrangement entered into by Group Companies in the ordinary course of their banking arrangements; and
- (d) the cash is freely and (except as mentioned in paragraph (a) above) immediately available to be applied in repayment or prepayment of the of the indebtedness incurred under the Finance Documents.

"**Cash Equivalent Investments**" means, in respect of the Group, and at any time, (i) immediately available funds at bank or postal accounts and (ii) marketable debt securities held for cash management purposes that can be realised promptly and which has a credit rating of either A-1 or higher by Standard & Poor's Rating Services or F1 or higher by Fitch Ratings Ltd or P-1 or higher by Moody's Investors Service Limited, or, if no rating is available in respect of the commercial paper or debt securities, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating.

"**Change of Control Event**" means the occurrence of an event or series of events whereby:

- (a) prior to an Equity Listing Event, the Sponsor directly or indirectly ceases to own more than 50 per cent of the shares and votes of the Issuer; and
- (b) upon and at any time following an Equity Listing Event, any event where any other Person or group of Persons acting in concert (save for the Sponsor) owns or controls 50 per cent. or more shares or voting rights of the Issuer.

For the purpose of this definition, "**control**" means (a) acquiring or controlling, directly or indirectly, more than fifty (50) per cent. of the voting shares of the Issuer, or (b) the right to, directly or indirectly, appoint or remove the whole or a majority of the directors of the board of directors of the Issuer, and "**acting in concert**" means a group of Persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition directly or indirectly of shares in the Issuer by any of them, either directly or indirectly, to obtain or consolidate control of the Issuer.

"Compliance Certificate" means a certificate, in form and substance reasonably satisfactory to the Agent, signed by the Issuer (i) certifying that so far as it is aware no Event of Default is continuing or, if it is aware that such event is continuing, specifying the event and steps, if any, being taken to remedy it, and (ii) including the calculations and figures in respect of the ratio of Net Interest Bearing Debt to Group EBITDA.

"CSD" means the Issuer's central securities depository and registrar in respect of the Notes, from time to time, initially Euroclear Sweden AB, Swedish Reg. No. 556112-8074, P.O. Box 191, 101 23 Stockholm, Sweden.

"Co-Investment Scheme" means any scheme under which certain officers, employees or parties of the Sponsor or its adviser or manager are entitled (as individuals or through a body corporate or any other vehicle) to acquire shares which the Sponsor would otherwise acquire.

"Equity Listing Event" means an initial public offering of the shares in either the Issuer or the Unrestricted Guarantor, after which such shares shall be quoted, listed, traded or otherwise admitted to trading on a Regulated Market.

"Escrow Account" means a bank account of the Issuer held with a reputable bank, into which the Net Proceeds will be transferred and which has been pledged in favour of the Agent and the Noteholders (represented by the Agent) under the Escrow Account Pledge Agreement.

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

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

"Existing Debt" means indebtedness incurred by:

- (a) the Issuer under the senior secured floating rate notes in an aggregate amount of up to EUR 180,000,000 (ISIN: SE0005878535) based on the terms and conditions originally dated 14 April 2014; and
- (b) certain Group Companies under the revolving credit facility agreement in the amount of EUR 22,500,000 between, amongst other, the Issuer and Nordea Bank AB (publ) (as arranger, facility agent and original lender).

"Existing Guarantees" means all guarantees provided in relation to the Existing Debt.

"Existing Security" means all security provided in relation to Existing Debt.

"Event of Default" means an event or circumstance specified in any of the Clauses 14.1 (*Non-Payment*) to and including Clause 14.9 (*Continuation of the Business*).

"Final Maturity Date" means 23 February 2023.

"Finance Charges" means, for the Relevant Period, the aggregate of interest accrued (whether in cash or capitalised, but excluding any capitalised interest with respect to any Shareholder Loans) in respect of any Borrowings of any member of the Group during that Relevant Period, calculated on a consolidated basis.

"Finance Documents" means these Terms and Conditions, the Intercreditor Agreement, the Security Documents, the Escrow Account Pledge Agreement, the Guarantee and Adherence Agreement, the Agency Agreement and any other document designated as a Finance Document by the Issuer and the Agent.

"Financial Indebtedness" means any indebtedness in respect of:

- (a) monies borrowed or raised, including Market Loans;
- (b) the amount of any liability in respect of any Financial Lease;
- (c) receivables sold or discounted (other than on a non-recourse basis, applying the accounting principles applicable on the First Issue Date);
- (d) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (e) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the mark to market value shall be taken into account);
- (f) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution, in each case guaranteeing drawn debt; and
- (g) (without double counting) any guarantee or other assurance against financial loss in respect of a type referred to in the above items (a)–(f).

"Financial Instruments Accounts Act" means the Swedish Financial Instruments Accounts Act (*lag (1998:1479) om kontoföring av finansiella instrument*).

"Financial Lease" means a lease which is defined as a lease in the accounts of the Group or is treated as an asset and a corresponding liability, to the extent the arrangement is treated as a financial lease in accordance with the accounting principles applicable on the First Issue Date, for the avoidance of doubt, any leases treated as operational leases by the accounting principles applicable on the First Issue Date shall not, regardless of any changes or amendments to the accounting principles, be considered as financial leases.

"Financial Report" means the Group's annual audited financial statements or quarterly interim unaudited reports, which shall be prepared and made available in accordance with Clause 11.1 (*Information from the Issuer*) and, if so requested by the Issuer in connection with a calculation in accordance with Clause 12.2 (*Calculation*

Adjustments), an interim unaudited report prepared and made available on the same basis as a quarterly interim unaudited report in accordance with Clause 11.1 (*Information from the Issuer*).

"First Call Date" means the date falling twenty-four (24) months after the First Issue Date.

"First Issue Date" means 23 February 2018.

"German Government Note Rate" means the yield to maturity at the time of computation of direct obligations of the Federal Republic of Germany (*Ge. Bund or Bundesanleihen*) with a constant maturity (as officially compiled and published in the most recent financial statistics that have become publicly available at least two (2) Business Days (but not more than five (5) Business Days) prior to the redemption date (or, if such financial statistics are not so published or available, any publicly available source of similar market data selected by the Issuer in good faith)) most nearly equal to the period from the relevant Redemption Date to (but excluding) the First Call Date, provided, however that if the period from the relevant Redemption Date to (but excluding) the First Call Date is not equal to the constant maturity of the direct obligations of the Federal Republic of Germany for which a weekly average yield is given, the German Government Bond Rate shall be obtained by a linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of direct obligations of the Federal Republic of Germany for which such yields are given, except that if the period from such Redemption Date to (but excluding) the First Call Date is less than one year, the weekly average yield on actually traded direct obligations of the Federal Republic of Germany adjusted to a constant maturity of one year shall be used.

"Group" means the Issuer and each Subsidiary (each a **"Group Company"**) of the Issuer, the assets and liabilities of which is included into the consolidated accounts with the Issuer pursuant to the Accounting Principles from time to time.

"Group EBIT" means, in respect of the Relevant Period, the consolidated profit of the Group, as the term operating income appears on the income statement of the Issuer on a consolidated basis, from ordinary activities according to the latest Financial Report(s):

- (a) before deducting any amount of tax on profits, gains or income paid or payable by any member of the Group;
- (b) before deducting any Net Finance Charges;
- (c) before taking into account any one-off items;
- (d) before taking into account any unrealised gains or losses on any derivative instrument;
- (e) after adding back or deducting, as the case may be, the amount of any loss or gain against book value arising on a disposal of any asset (other than in the ordinary course of trading) and any loss or gain arising from an upward or downward revaluation of any asset; and

- (f) after adding back the amount of any profit (or deducting the amount of any loss) which are attributable to (a) minority interests held by the Group which are not Subsidiaries, or (b) Joint Ventures of the Group.

"Group EBITDA" means, in respect of the Relevant Period, Group EBIT for that Relevant Period after adding back any amount attributable to the amortisation, depreciation or impairment of assets of members of the Group.

"Guarantee and Adherence Agreement" means the guarantee and adherence agreement dated on or about the date of these Terms and Conditions between the Issuer, the Guarantors and the Agent pursuant to which the Guarantors guarantee the Secured Obligations and the Guarantors (other than the Unrestricted Guarantor) adhere to the terms of the Finance Documents.

"Guarantees" means the guarantees provided by the Guarantors under the Guarantee and Adherence Agreement.

"Guarantor Coverage Test" means that the aggregate of earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Group EBITDA) of the Guarantors exceeds 85 per cent. of Group EBITDA of the Group (tested annually with reference to and in relation to the delivery of the latest annual audited consolidated financial statements of the Group).

"Guarantors" means the Issuer, the Unrestricted Guarantor, Polygon International AB, Swedish Reg. No. 556807-6417 and Polygon Sverige AB, Swedish Reg. No. 556034-6164, Polygon Norway Holding AS, Norwegian Reg. No. 996 019 381, Polygon AS Norwegian Reg. No. 915 229 115, Polygon Finland Holding Oy, Finnish Reg. No. 2354769-0, Polygon Finland Oy, Finnish Reg. No. 0892371-5, R3 Polygon UK Holding Limited, UK Reg. No. 07452971, R3 Polygon UK Ltd., UK Reg. No. 00402652, Polygon A/S, Danish Reg. No. 42 93 83 19, Polygon US Corporation, US Reg. No. 27-28 92115, POLYGONVATRO GmbH, German Reg. No. 116512 and any Additional Guarantor.

"Hedge Counterparty" means any bank or institution being a hedge counterparty pursuant to the terms of the Intercreditor Agreement.

"Hedging Obligations" all and any obligations of the Group towards any Hedge Counterparty for any hedge.

"IFRS" means the International Financial Reporting Standards (IFRS) and guidelines and interpretations issued by the International Accounting Standards Board (or any predecessor and successor thereof), in force from time to time.

"Incurrence Test" means the test of the financial incurrence covenants as set out in Clause 12 (*Incurrence Covenant*).

"Initial Notes" means the Notes issued on the First Issue Date.

"Insolvent" means, in respect of a relevant Person, that it is deemed to be insolvent, or admits inability to pay its debts as they fall due, in each case within the meaning of Chapter 2, Sections 7-9 of the Swedish Bankruptcy Act (Sw. *konkurslagen (1987:672)*) (or its equivalent in any other jurisdiction), suspends making payments on any of its

debts or by reason of actual financial difficulties commences negotiations with its creditors (other than the Noteholders) with a view to rescheduling any of its indebtedness (including company reorganisation under the Swedish Company Reorganisation Act (Sw. *lag (1996:764) om företagsrekonstruktion*) (or its equivalent in any other jurisdiction)) or is subject to involuntary winding-up, dissolution or liquidation.

"Intercompany Loans" means any loan between Group Companies.

"Intercreditor Agreement" means the intercreditor agreement to be entered into on or about the First Issue Date between the Issuer, certain Subsidiaries of the Issuer, the Agent, the Super Senior Revolving Credit Facility Creditors, the agent under the Super Senior Revolving Credit Facility and the Hedge Counterparty (if any).

"Interest" means the interest on the Notes calculated in accordance with Clauses 8(a) to 8(d).

"Interest Payment Date" means 10 April and 10 October of each year or, to the extent such day is not a Business Day, the Business Day following from an application of the Business Day Convention. The first Interest Payment Date for the Notes shall be 10 April 2018 and the last Interest Payment Date shall be the relevant Redemption Date.

"Interest Period" means (i) in respect of the first Interest Period, the period from (but excluding) the First Issue Date to (and including) the first Interest Payment Date, and (ii) in respect of subsequent Interest Periods, the period from (but excluding) an Interest Payment Date to (and including) the next succeeding Interest Payment Date (or a shorter period if relevant).

"Interest Rate" means 4.000 per cent. *per annum*.

"Issuer" means Polygon AB (publ), a public limited liability company incorporated under the laws of Sweden, with Swedish Reg. No. 556816-5855.

"Issuing Agent" means Nordea Bank AB (publ), Swedish Reg. No. 516406-0120, or another party replacing it, as Issuing Agent, in accordance with these Terms and Conditions.

"Investor Documents" means any equity related documents which are issued by the Issuer or any Group Company, which in all respect is subordinated to the obligations of the Issuer or any of the Guarantors under these Terms and Conditions.

"Investor Loan" means a loan with the original principal amount of EUR 5,000,000 evidenced by a loan agreement amended and restated on 19 April 2013, between Triton Managers III LTD, TFF III LTD and Muha GP LTD in their respective capacity as lenders and Polygon International AB as borrower, under which interest is not payable in cash and which has a final maturity date exceeding the Final Maturity Date with more than twelve (12) months or any Investor Document replacing such loan in whole or in part provided that (i) no cash interest may be paid under such replacing loan and (ii) such replacing loan shall have a final maturity date exceeding the Final Maturity Date with more than twelve (12) months.

"**Joint Bookrunners**" means Carnegie Investment Bank AB (publ), Swedish Reg. No. 516406-0138 and Nordea Bank AB (publ), Swedish Reg. No. 516406-0120.

"**Leverage**" means the ratio of Net Interest Bearing Debt to Group EBITDA.

"**Long Term Loan**" means any existing or future loan entered (or to be entered into) between Group Companies which (i) has a contractual term exceeding twelve (12) months, or (ii) has a contractual term which is less than twelve (12) months but is renewed, prolonged or otherwise remain in place, in whole or in part, for a longer total duration than twelve (12) months.

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

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

- (a) the business, financial condition or operations of the Group taken as a whole;
- (b) the Issuer's ability to perform and comply with its payment obligations under these Terms and Conditions and with the undertakings set out in Clause 13 (*General Undertakings*) (other than Clause 13.11 (*Intercompany Loans*)) and the Obligors' ability to perform and comply with the undertaking set out in Clause 13.12 (*Subordination and accession to the Intercreditor Agreement*); or
- (c) the validity or enforceability of the Finance Documents.

"**Material Group Company**" means (i) the Issuer, (ii) any Guarantor, (iii) any Pledged Group Company and a Group Company which shares shall be subject to Security in favour of the Secured Parties pursuant to the terms of the Intercreditor Agreement, and (iv) any Group Company whose EBITDA (calculated in the same manner as Group EBITDA) or assets (on a consolidated basis) exceeds five (5) per cent. of the Group EBITDA or assets.

"**Net Finance Charges**" means, for the Relevant Period, the Finance Charges during that period less interest income during that period (other than interest income on Financial Indebtedness between Group Companies).

"**Net Interest Bearing Debt**" means the aggregate interest bearing debt (including the amount under any guarantee of letter of credit or similar instrument but excluding pension liabilities, any Shareholder Loans, Investor Documents, any loan with PIK interest which has a final maturity date which occurs after the Final Maturity Date and which is subordinated to the Notes, and interest bearing debt borrowed from any Group Company) less Cash and Cash Equivalents of the Group in accordance with the applicable accounting principles of the Group from time to time.

"**Net Proceeds**" means the proceeds from the issuance of the Initial Notes which after deduction has been made for the Transaction Costs (save for the costs relating to

listing of the Notes) payable by the Issuer to the Joint Bookrunners for the services provided in relation to the placement and issuance of the Notes.

"**Nominal Amount**" has the meaning set forth in Clause 2(c).

"**Noteholder**" means the Person who is registered on a Securities Account as direct registered owner (Sw. *ägare*) or nominee (Sw. *förvaltare*) with respect to a Note.

"**Noteholders' Meeting**" means a meeting among the Noteholders held in accordance with Clause 17 (*Noteholders' Meeting*).

"**Notes**" means a debt instrument (Sw. *skuldförbindelse*) of the type set forth in Chapter 1 Section 3 of the Financial Instruments Accounts Act and which are governed by and issued under these Terms and Conditions, including the Initial Notes and the Subsequent Notes.

"**Obligors**" means the Issuer, each Guarantor (other than the Unrestricted Guarantor) and any Person who has acceded to the Intercreditor Agreement pursuant to Clause 13.12 (*Subordination and accession to the Intercreditor Agreement*).

"**Permitted Debt**" means any Financial Indebtedness:

- (a) of the Group incurred under the Initial Notes and the Super Senior Revolving Credit Facility Documents (including, for the avoidance of doubt, any replacement Super Senior Revolving Credit Facility Documents);
- (b) of the Group pursuant to any Financial Leases incurred in the ordinary course of the Group's business, not exceeding an aggregate amount of the higher of (i) EUR 2,500,000 and (ii) 15 per cent. of Group EBITDA at any one time outstanding;
- (c) taken up from a Group Company;
- (d) under a Shareholder Loan or Intercompany Loan;
- (e) arising under any Investor Documents, in each case as in force on the First Issue Date or arising thereafter and subject always to these Terms and Conditions and subordinated to the Notes;
- (f) in the ordinary course of business under Advance Purchase Agreements;
- (g) any recourse claim for a guarantee in the ordinary course of business (for the avoidance of doubt not including guarantees or security in respect of monies borrowed);
- (h) arising under a foreign exchange transaction or commodity derivatives for spot or forward delivery entered into in connection with protection against fluctuation in currency rates or prices where the exposure arises in the ordinary course of business or in respect of payments to be made under these Terms and Conditions or the Super Senior Revolving Credit Facility, but not any transaction for investment or speculative purposes;

- (i) arising under any interest rate hedging transactions in the ordinary course of business or in respect of payments to be made under these Terms and Conditions or the Super Senior Revolving Credit Facility, but not any transaction for investment or speculative purposes;
- (j) as a result of any Group Company acquiring another entity and which is due to that such acquired entity holds indebtedness, provided that, if the indebtedness is in excess of EUR 2,000,000 (or the equivalent amount in any other currency), the Incurrence Test is met, tested pro forma including the acquired entity in question (provided that a clean-up period of 90 days shall be applied to unwind any acquired indebtedness which was not identified in the due diligence process prior to the acquisition and which would have resulted in the Incurrence Test not being met had such unforeseen indebtedness been included in the Incurrence Test);
- (k) by any Group Company under any pension and tax liabilities incurred in the ordinary course of business;
- (l) any netting or set-off or cash pooling arrangements entered into by any member of the Group in the ordinary course of business of its financial arrangements for the purposes of netting debit and credit balances of the members of the Group;
- (m) incurred by the Issuer if such Financial Indebtedness meets the Incurrence Test tested pro forma including such incurrence, and (i) is incurred as a result of issuance of Subsequent Notes by the Issuer under these Terms and Conditions, or (ii) such Financial Indebtedness ranks pari passu with or is subordinated to the obligations of the Issuer under the Finance Documents, and has a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Maturity Date;
- (n) until no later than two (2) Business Days following disbursement from the Escrow Account, the Existing Debt;
- (o) incurred in connection with the redemption of the Notes in order to fully refinance the Notes and provided further that such Financial Indebtedness is subject to an escrow arrangement up until the redemption of the Notes (taking into account the rules and regulations of the CSD), for the purpose of securing, inter alia, the redemption of the Notes;
- (p) all types of deferred payment undertakings incurred in connection with any acquisitions which is a non-interest bearing contingent liability; or
- (q) if not permitted by any of paragraphs (a) – (p) above, which is not used to increase any commitment or liability under the Super Senior Revolving Credit Facility and does not in aggregate at any time exceed an amount of EUR 5,000,000 from time to time.

"Permitted Distribution" means a distribution made in accordance with Clause 13.2(c).

"Permitted Distribution Amount" means fifty (50) per cent. of the consolidated net profit (defined as profit / (loss) as it appears on the Group's income statement prepared in accordance with the Accounting Principles) of the Group for the financial year 2017 (before taking into account any interest payable in kind on any Shareholder Loan) and as increased or decreased pursuant to Clause 13.2 (*Distributions*).

"Permitted Mergers" means;

- (a) the merger between the Issuer and Polygon International AB provided that the Issuer is the surviving entity;
- (b) the merger (or analogous procedure) between Polygon A/S and Polygon Fugttechnik A/S provided that Polygon A/S is the surviving entity;
- (c) the merger (or analogous procedure) between Polygon Finland Holding Oy and Polygon Finland Oy, subject to the relevant Security Document;
- (d) the liquidation, amalgamation, merger or corporate reconstruction in each case on a solvent basis (individually or cumulatively, "**UK Reconstruction Action**") of R3 Polygon UK Holding Limited and/or R3 Polygon UK Ltd. where all of the assets and business following such UK Reconstruction Action remain with the surviving entity, provided that the surviving entity arising from such UK Reconstruction Action remains an Obligor and the Finance Parties (or the Security Agent on their behalf) will continue to have the same or substantially equivalent guarantees and Security over the surviving entity as before; and
- (e) the merger (or analogous procedure) of Polygon Norway Holding AS and Polygon AS, subject to the relevant Security Document.

"Permitted Security" means any guarantee or security:

- (a) created in accordance with the Finance Documents and/or the Super Senior Revolving Credit Facility Documents;
- (b) hedging transactions referred to in paragraph (h) and (i) of the Permitted Debt;
- (c) guarantees or security arising by operation of law or in the ordinary course of business (for the avoidance of doubt not including guarantees or security in respect of any monies borrowed);
- (d) any guarantee in the ordinary course of business, which is in force and has been notified to the Security Agent prior to the First Issue Date, or any counter-indemnities issued by any Group Company for such guarantees;
- (e) any 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 Group Company in the ordinary course of trading;
- (f) any guarantee qualifying as Permitted Debt;
- (g) in relation to any leasing of real property which leasing obligation constitutes Permitted Debt;

- (h) in relation to liabilities for any Financial Leases which constitutes Permitted Debt;
- (i) security interests on assets of an acquired company that exist at the time of an acquisition, provided that the debt secured by such security is Permitted Debt and provided further that the security interest is released within 90 days from the closing of the acquisition;
- (j) created to secure Financial Indebtedness incurred to finance the acquisition of a company, provided that (i) the Financial Indebtedness secured constitutes Permitted Debt, (ii) Security is only provided over the shares in such company or the assets in such company, and (iii) the Incurrence Test is met;
- (k) any rights of netting or set-off over credit balances on bank accounts arising in the ordinary course of the banking arrangements of the Group and any lien arising under the general terms and conditions of banks or Sparkassen (Ge. Allgemeine Geschäftsbedingungen der Banken oder Sparkassen) with whom any Group Company maintains a banking relationship in the ordinary course of business;
- (l) any security given in order to comply with the requirements of Section 8a of the German Altersteilzeitgesetz (Act on Partial Retirement) and of Section 7b of the German Sozialgesetzbuch (Social Security Code);
- (m) any security to be granted by any Group Company for pension liabilities or pension liability insurances;
- (n) until no later than two (2) Business Days following disbursement from the Escrow Account, the Existing Security and the Existing Guarantees; or
- (o) any guarantee or security provided by or over a Group Company to secure any Permitted Debt referred to in paragraphs (o) of Permitted Debt.

"Permitted Transfer" means any transfer by a Sponsor of shares or other securities in the Unrestricted Guarantor or a holding company of the Unrestricted Guarantor to (i) any member of that Sponsor's Sponsor Group, or (ii) to any Co-Investment Scheme.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organisation, government, or any agency or political subdivision thereof, or any other entity, whether or not having a separate legal personality.

"Pledged Group Company" means:

- (a) the Issuer;
- (b) Polygon International AB;
- (c) Polygon Sverige AB;
- (d) Polygonvatro GmbH;

- (e) Polygon Finland Holding Oy;
- (f) Polygon Finland Oy;
- (g) R3 Polygon UK Holding Limited;
- (h) R3 Polygon UK Ltd.;
- (i) Polygon Norway Holding AS; and
- (j) Polygon AS.

"Pledged Intercompany Loans" means the Intercompany Loans referred to in paragraphs (k) to and including (o) of the definition of "Security Documents".

"Quotation Day" means, in relation to any period for which an interest rate is to be determined, two (2) Business Days before the first day of that period.

"Record Date" means the fifth (5) Business Day prior to (i) an Interest Payment Date, (ii) a Redemption Date, (iii) a date on which a payment to the Noteholders is to be made under Clause 15 (*Distribution of Proceeds*), (iv) the date of a Noteholders' Meeting, or (v) another relevant date, or in each case such other Business Day falling prior to a relevant date if generally applicable on the Swedish bond market.

"Redemption Date" means the date on which the relevant Notes are to be redeemed, repaid or repurchased in accordance with Clause 9 (*Redemption and Repurchase of the Notes*).

"Regulated Market" means any regulated market (as defined in Directive 2004/39/EC on markets in financial instruments).

"Relevant Period" means each period of twelve (12) consecutive calendar months.

"Restricted Payment" means any distribution set forth in Clauses 13.2(a) and 13.2(b).

"Secured Obligations" means all obligations of the Group under the Finance Documents, the Super Senior Revolving Credit Facility Documents and under any documents relating to any such debt and the Hedging Obligations.

"Secured Parties" means the Noteholders, the Agent, the Super Senior Revolving Credit Facility Creditors, the Hedge Counterparty and the agent under the Super Senior Revolving Credit Facility and the Security Agent.

"Securities Account" means the account for dematerialised securities maintained by the CSD pursuant to the Financial Instruments Accounts Act in which (i) an owner of such security is directly registered or (ii) an owner's holding of securities is registered in the name of a nominee.

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

"Security Agent" means the security agent, appointed by the Secured Parties pursuant to the Intercreditor Agreement, holding the Transaction Security on behalf of the Secured Parties, being Intertrust (Sweden) AB on the First Issue Date.

"Security Documents" means:

- (a) the share pledge agreement between the Unrestricted Guarantor and the Security Agent with respect to the shares in the Issuer;
- (b) the share pledge agreement between the Issuer and the Security Agent with respect to the shares in Polygon International AB;
- (c) the share pledge agreement between Polygon International AB and the Security Agent with respect to the shares in Polygon Sverige AB;
- (d) the share pledge agreement between Polygon Sverige AB and the Security Agent with respect to the shares in Polygonvatro GmbH (German Reg. No. 116512);
- (e) the share pledge agreement between the Issuer and the Security Agent with respect to the shares in Polygon Finland Holding Oy (Finnish Reg. No. 2354769-0);
- (f) the share pledge agreement between Polygon Holding Oy and the Security Agent with respect to the shares in Polygon Finland Oy (Finnish Reg. No. 0892371-5);
- (g) the share pledge agreement between Polygon International AB and the Security Agent with respect to the shares in R3 Polygon UK Holding Limited (UK Reg. No. 07452971);
- (h) the share pledge agreement between R3 Polygon UK Holding Limited and the Security Agent with respect to the shares in R3 Polygon UK Ltd. (UK Reg. No. 00402652);
- (i) the share pledge agreement between Polygon International AB and the Security Agent with respect to the shares in Polygon Norway Holding AS (Norwegian Reg. No. 996 019 381);
- (j) the share pledge agreement between Polygon Norway Holding AS and the Security Agent with respect to the shares in Polygon AS (Norwegian Reg. No. 915 229 115);
- (k) the intercompany loan pledge agreement between the Issuer and the Security Agent with respect to the intercompany loan granted by the Issuer to Polygon Finland Holding Oy in an approximate principal amount of EUR 13,800,000;
- (l) the intercompany loan pledge agreement between the Issuer and the Security Agent with respect to the intercompany loan granted by the Issuer to PolygonVatro GmbH in an approximate principal amount of EUR 32,300,000;

- (m) the intercompany loan pledge agreement between the Issuer and the Security Agent with respect to the intercompany loan granted by the Issuer to Polygon Nederland Holding B.V. in an approximate amount of EUR 5,500,000;
- (n) any pledge agreement entered into for the purpose of securing present and future Intercompany Loans where the aggregate amount of such Intercompany Loans to a single Group Company exceeds EUR 10,000,000 (other than loans to Polygon US Corporation and Polygon Norway Holding AS);
- (o) any pledge agreement entered into for the purpose of securing present and future Intercompany Loans where proceeds from the Notes are on-lent by the Issuer to any of its Subsidiaries; and
- (p) any other Transaction Security Document (as defined in the Intercreditor Agreement).

"Senior Finance Documents" means the Finance Documents, the Super Senior Revolving Credit Facility Documents and any document relating to the Hedging Obligations.

"Shareholder Loans" means any shareholder loans made by the Shareholders to the Issuer or any of its Subsidiaries, where the Issuer or the relevant Subsidiary is the debtor, provided, that (a) the Shareholder lender is a party to the Intercreditor Agreement (other than the lenders under the Investor Loan, which for the avoidance of doubt for other purposes is a Shareholder Loan) and the Shareholder Loan is thus subordinated to the obligations of the Issuer in respect of the Notes, (b) according to its terms have a final redemption date or, when applicable, early redemption dates or instalment dates which occur after the Final Maturity Date, and (c) according to its terms do not provide for any cash pay interest but interest to be non-cash paid or to accrue to be paid-in-kind by being added to principal (however, for the avoidance of doubt, such loan may be converted in to an Investor Document).

"Shareholders" means the Unrestricted Guarantor and any direct or indirect shareholder of the Unrestricted Guarantor.

"Sponsor" means Triton Fund III and any Person to whom they have made a Permitted Transfer.

"Sponsor Affiliate" means any Sponsor, each of its Affiliates, any trust of which any Sponsor or any of its Affiliates is a trustee, any partnership of which any Sponsor or any of its Affiliates is a partner and any trust, fund or other entity which is managed by, or is under the control of, any Sponsor or any of its Affiliates, provided that any such trust, fund or other entity which has been established for at least six months solely for the purpose of making, purchasing or investing in loans or debt securities and which is managed or controlled independently from all other trusts, funds or other entities managed or controlled by any Sponsor or any of its Affiliates which have been established for the primary or main purpose of investing in the share capital of companies shall not constitute an Sponsor Affiliate.

"Sponsor Group" means, in relation to a Sponsor:

- (a) any group undertaking for the time being of that Sponsor;
- (b) any Sponsor Affiliate of that Sponsor;
- (c) any general partner, trustee or nominee of that Sponsor or any group undertaking for the time being of that Sponsor; and
- (d) any manager or adviser or limited partner of a Sponsor or any group undertaking of that Sponsor for the time being,

in each case, other than a Group Company, and "member of a Sponsor Group" shall be construed accordingly.

"**Subsequent Notes**" means any Notes issued after the First Issue Date on one or more occasions.

"**Subsidiary**" means in relation to any Person, any Swedish or foreign legal entity (whether incorporated or not), which at the time is a subsidiary (Sw. *dotterföretag*) to such Person, directly or indirectly, as defined in the Swedish Companies Act (*aktiebolagslagen (2005:551)*).

"**Super Senior Debt**" means the indebtedness under the Super Senior Revolving Credit Facility and under the Hedging Obligations.

"**Super Senior Headroom**" means an amount of up to EUR 5,000,000 by which the Super Senior Revolving Credit Facility may be increased if and to the extent the facility agent thereunder and the Issuer agree that such increase is necessary for the liquidity requirements of the Group.

"**Super Senior Revolving Credit Facility**" means a revolving facility to be provided to certain Group Companies by a bank (initially Nordea Bank AB (publ)) being a party to the Intercreditor Agreement in an aggregate maximum commitment of the higher of (i) EUR 40,000,000 (or the equivalent amount in any other currency) and (ii) 0.8X Group EBITDA, (the Super Senior Headroom may be added to each such amount), for general corporate purposes (including for the avoidance of doubt acquisitions and working capital purposes) of the Group (and any refinancing, amendments or replacements thereof), amended or replaced from time to time (as the case may be).

"**Super Senior Debt Creditors**" means the Hedge Counterparty and the Super Senior Revolving Credit Facility Creditors.

"**Super Senior Revolving Credit Facility Agreement**" means the agreement for the Super Senior Revolving Credit Facility.

"**Super Senior Revolving Credit Facility Creditors**" mean the finance parties under the Super Senior Revolving Credit Facility Documents.

"**Super Senior Revolving Credit Facility Documents**" means the Super Senior Revolving Credit Facility Agreement and any other document entered into in relation thereto.

"**Total Nominal Amount**" means the total aggregate Nominal Amount of the Notes outstanding at the relevant time.

"**Transaction Costs**" means all fees, costs and expenses incurred by a Group Company in connection with (a) the issuance of the Initial Notes, (b) the issuance of any Subsequent Notes, (c) the establishment of Super Senior Debt, (d) the Transaction Security, (e) the repayment of the Existing Debt, (f) acquisitions which are not prohibited hereunder and (g) the listing of the Notes.

"**Transaction Security**" means the Security provided for the Secured Obligations pursuant to the Security Document and as provided pursuant to Clause 13.11 (*Intercompany Loans*).

"**Triton**" means Triton Managers III Ltd. acting on behalf of Triton Fund III General Partner L.P, in its turn acting for Triton Fund III L.P., Triton Fund III No. 2 L.P, Triton Fund III F&F No. 2 L.P., Triton Fund III F&F No. 3 L.P., Triton Fund III F&F No. 4 L.P. Triton Fund III F&F G L.P., Triton Fund III German L.P., and TFF III Ltd acting on behalf of Triton III F&F L.P.

"**Unrestricted Guarantor**" means Polygon Holding AB, Swedish Reg. No. 556809-3511, being the direct parent company of the Issuer.

"**Written Procedure**" means the written or electronic procedure for decision making among the Noteholders in accordance with Clause 18 (*Written Procedure*).

1.2 Construction

- (a) Unless a contrary indication appears, any reference in these Terms and Conditions to:
- (i) "**assets**" includes present and future properties, revenues and rights of every description;
 - (ii) any agreement or instrument is a reference to that agreement or instrument as supplemented, amended, novated, extended, restated or replaced from time to time;
 - (iii) a "**regulation**" includes any regulation, rule or 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;
 - (iv) an Event of Default is continuing if it has not been remedied or waived;
 - (v) a provision of law is a reference to that provision as amended or re-enacted; and
 - (vi) a time of day is a reference to Stockholm time.
- (b) A notice shall be deemed to be sent by way of press release if it is made available to the public within Sweden promptly and in a non-discriminatory manner.

- (c) No delay or omission of the Agent or of any Noteholder to exercise any right or remedy under the Finance Documents shall impair or operate as a waiver of any such right or remedy, other than as explicitly set out in these Terms and Conditions.

2. Status of the Notes

- (a) The Notes are denominated in EUR and each Note is constituted by these Terms and Conditions. The Issuer undertakes to make payments in relation to the Notes and to comply with these Terms and Conditions.
- (b) By subscribing for Notes, each initial Noteholder agrees that the Notes shall benefit from and be subject to the Finance Documents and by acquiring Notes, each subsequent Noteholder confirms such agreement.
- (c) The nominal amount of each Note is EUR 100,000 less the aggregate amount by which each Note has been redeemed or repaid in part pursuant to Clause 9.4 (*Special Redemption*) (the "**Nominal Amount**"). The maximum Total Nominal Amount of the Initial Notes is EUR 210,000,000. All Initial Notes are issued on a fully paid basis at an issue price of 100 per cent. of the Nominal Amount.
- (d) Provided that the Incurrence Test is met and that no Event of Default is continuing or would result from such issue, the Issuer may, at one or several occasions, issue Subsequent Notes. Subsequent Notes shall benefit from and be subject to the Finance Documents, and, for the avoidance of doubt, the applicable ISIN, the interest rate, the currency, the nominal amount and the final maturity applicable to the Initial Notes shall apply to Subsequent Notes. The price of the Subsequent Notes may be set at a discount or at a premium compared to the Nominal Amount.
- (e) The Notes are freely transferrable. Noteholders may however be subject to purchase or transfer restrictions with regard to the Notes, as applicable from time to time under local laws to which a Noteholder may be subject (due to, e.g., its nationality, its residency, its registered address or its place(s) of business). Each Noteholder must ensure compliance with local laws and regulations applicable at its own cost and expense.
- (f) The Notes constitute direct, general, unconditional, unsubordinated and secured obligations of the Issuer and shall at all times rank without any preference among them and at least *pari passu* with all direct, unconditional, unsubordinated and unsecured obligations of the Issuer, except for those obligations which are mandatorily preferred by law and for the super senior status of (i) the Super Senior Revolving Credit Facility and (ii) the Hedging Obligations permitted under these Terms and Conditions, in each case as set out in the Intercreditor Agreement and *pari passu* with the other secured parties in respect of the Security.
- (g) No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Notes or the possession, circulation or distribution of any document or other material relating to the Issuer or the Notes in any

jurisdiction other than Sweden, where action for that purpose is required. Each Noteholder must inform itself about, and observe, any applicable restrictions to the transfer of material relating to the Issuer or the Notes.

3. Use of Proceeds

The Net Proceeds from the issuance of the Initial Notes shall be applied against repayment in full of the Existing Debt and any remaining amount shall be used for general corporate purposes of the Group including acquisitions. Any proceeds from any issuance of Subsequent Notes shall be used for general corporate purposes of the Group including acquisitions.

4. Conditions Precedent

4.1 Conditions Precedent Initial Notes Issue

- (a) The payment of the Net Proceeds to the Escrow Account is subject to the Agent having received the following documents and evidence and confirmed to the Issuing Agent that the receipt thereof have been fulfilled to its satisfaction (acting reasonably):
 - (i) a duly executed copy of the Escrow Account Pledge Agreement and evidence that the Security created thereunder has been duly created and perfected;
 - (ii) a duly executed copy of these Terms and Conditions;
 - (iii) a duly executed copy of the Agency Agreement;
 - (iv) copies of the certificate of registration and the articles of associations of the Issuer;
 - (v) a copy of a resolution of the board of directors of the Issuer authorising, among other things, the Issue.
- (b) The Issuer shall provide, or procure the provision of, to the Agent, in form and substance satisfactory to the Agent (acting reasonably):
 - (i) copies of constitutional documents of each Guarantor;
 - (ii) copies of necessary corporate resolutions (including authorisations) from each Group Company (other than the Issuer) to execute the relevant Finance Documents and only to the extent that Group Company is a party to a relevant Finance Document;
 - (iii) duly executed copies of the Finance Documents (other than as set out above under paragraph 4.1(a) or Clause 4.2(a));
 - (iv) duly executed notice of release from the Issuer in respect of the pledge over the Escrow Account;

- (v) duly executed copies of release notice(s) from the relevant agent(s) under the Existing Debt confirming that all Existing Security and Existing Guarantees will be released upon repayment of the Existing Debt;
 - (vi) evidence by way of a funds flow statement that the amounts to be released from the Escrow Account will be applied towards repayment of the Existing Debt and general corporate purposes in accordance with Clause 3 (*Use of Proceeds*) immediately following disbursement;
 - (vii) an agreed form Compliance Certificate; and
 - (viii) the agreed form documents referred to under Clause 4.2 (*Conditions Subsequent Initial Notes Issue*).
- (c) The Agent may assume that the documents and evidence delivered to it pursuant to Clauses 4.1(a) and 4.1(b) are accurate, legally valid, enforceable, correct, true and complete unless it has actual knowledge to the contrary, and the Agent does not have to verify or assess the contents of any such documentation. The documents and evidence are not reviewed by the Agent from a legal or commercial perspective of the Noteholders.
- (d) When the conditions precedent for disbursement set out in Clauses 4.1(a) and 4.1(b) have been fulfilled to the satisfaction of the Agent (acting reasonably), the Agent shall instruct the bank (with which the Issuer holds the Escrow Account) to transfer the funds from the Escrow Account for the purpose of repayment of the Existing Debt and in accordance with Clause 3 (*Use of Proceeds*), and the Agent shall immediately thereafter or in connection therewith release the pledge over the Escrow Account.
- (e) If the conditions precedent for disbursement set out in Clauses 4.1(a) and 4.1(b) have not been fulfilled to the satisfaction of the Agent (acting reasonably) or waived by the Agent within thirty (30) Business Days from the First Issue Date (a "**Conditions Precedent Failure**"), the Issuer shall immediately repurchase all Notes at a price equal to 100 per cent. of the Nominal Amount together with any accrued but unpaid Interest. Any funds distributed by the Agent to the Noteholders (as a result of the Conditions Precedent Failure) in accordance with the Escrow Account Pledge Agreement shall be deemed to be paid by the Issuer for the redemption under this Clause 4.1(e).

4.2 Conditions Subsequent Initial Notes Issue

- (a) The Issuer shall no later than two (2) Business Days following disbursement from the Escrow Account provide the Agent with the following:
 - (i) duly executed copies of the relevant Security Documents and the Guarantee and Adherence Agreement;

- (ii) the documents and other evidences to be delivered pursuant to the Security Documents to create and perfect the Transaction Security referred to thereunder;
 - (iii) legal opinion(s) on the capacity, due execution, in respect of any member of the Group which is party to the Finance Documents (not being incorporated in Sweden) prepared by the legal counsel of the Joint Bookrunners and/or the Secured Parties; and
 - (iv) legal opinion(s) on the validity and enforceability of any Finance Document not governed by Swedish law prepared by the legal counsel of the Joint Bookrunners and/or the Secured Parties.
- (b) The Agent may assume that the documents and evidence delivered to it pursuant to paragraph (a) above are accurate, legally valid, enforceable, correct, true and complete unless it has actual knowledge to the contrary, and the Agent does not have to verify or assess the contents of any such documentation. The documents and evidence are not reviewed by the Agent from a legal or commercial perspective of the Noteholders.
 - (c) If the documents and evidences referred to in paragraph (a) have not been fulfilled to the satisfaction of the Agent (acting reasonably) or waived by the Agent within two (2) Business Days following disbursement from the Escrow Account, the Issuer shall immediately repurchase all Notes at a price equal to 100 per cent. of the Nominal Amount together with any accrued but unpaid Interest.

5. Notes in Book-Entry Form

- (a) The Notes will be registered for the Noteholders on their respective Securities Accounts and no physical notes will be issued. Accordingly, the Notes will be registered in accordance with the Financial Instruments Accounts Act. Registration requests relating to the Notes shall be directed to an Account Operator.
- (b) Those who according to assignment, Security, the provisions of the Swedish Children and Parents Code (*Sw. föräldrabalken (1949:381)*), conditions of will or deed of gift or otherwise have acquired a right to receive payments in respect of a Note shall register their entitlements to receive payment in accordance with the Financial Instruments Accounts Act.
- (c) The Issuer (and the Agent when permitted under the CSD's applicable regulations) shall be entitled to obtain information from the debt register (*Sw. skuldbok*) kept by the CSD in respect of the Notes. At the request of the Agent, the Issuer shall promptly obtain such information and provide it to the Agent.
- (d) For the purpose of or in connection with any Noteholders' Meeting under Clause 17 (*Noteholders' Meeting*) or any direct communication to the Noteholders under Clause 18 (*Written Procedure*), the Issuing Agent shall be entitled to obtain information from the debt register kept by the CSD in respect of the Notes.

- (e) The Issuer shall issue any necessary power of attorney to such Persons employed by the Agent, as notified by the Agent, in order for such individuals to independently obtain information directly from the debt register kept by the CSD in respect of the Notes. The Issuer may not revoke any such power of attorney unless directed by the Agent or unless consent thereto is given by the Noteholders.

6. Right to Act on Behalf of a Noteholder

- (a) If any Person other than a Noteholder wishes to exercise any rights under the Finance Documents, it must obtain a power of attorney or other proof of authorisation from the Noteholder or a successive, coherent chain of powers of attorney or proofs of authorisation starting with the Noteholder and authorising such Person.
- (b) A Noteholder may issue one or several powers of attorney to third parties to represent it in relation to some or all of the Notes held by it. Any such representative may act independently under the Finance Documents in relation to the Notes for which such representative is entitled to represent the Noteholder and may further delegate its right to represent the Noteholder by way of a further power of attorney.
- (c) The Agent shall only have to examine the face of a power of attorney or other proof of authorisation that has been provided to it pursuant to Clause 6(b) and may assume that it has been duly authorised, is valid, has not been revoked or superseded and that it is in full force and effect, unless otherwise is apparent from its face.

7. Payments in Respect of the Notes

- (a) Any payment or repayment under the Finance Documents shall be made to such Person who is registered as a Noteholder on a Securities Account on the Record Date immediately preceding the relevant payment date.
- (b) If a Noteholder has registered, through an Account Operator, that principal and interest shall be deposited in a certain bank account, such deposits will be effected by the CSD on the relevant payment date. In other cases, payments will be transferred by the CSD to the Noteholder at the address registered with the CSD on the Record Date. Should the CSD, due to a delay on behalf of the Issuer or some other obstacle, not be able to effect the payment of amounts according to the aforesaid, the Issuer shall procure that the CSD will pay such amount to the relevant Noteholder being registered as such on the Record Date as soon as possible after such obstacle has been removed.
- (c) If, due to any obstacle for the CSD, the Issuer cannot make a payment or repayment, such payment or repayment may be postponed until the obstacle has been removed. Interest shall accrue in accordance with Clause 8(d) during such postponement.

- (d) If payment or repayment is made in accordance with this Clause 7, the Issuer and the CSD shall be deemed to have fulfilled their obligation to pay, irrespective of whether such payment was made to a Person not entitled to receive such amount.
- (e) The Issuer is not liable to gross-up any payments under these Terms and Conditions by virtue of any withholding tax, public levy or the similar.

8. Interest

- (a) Each Initial Note carries Interest at the Interest Rate from (but excluding) the First Issue Date up to (and including) the relevant Redemption Date. Any Subsequent Note will carry Interest at the Interest Rate from (but excluding) the Interest Payment Date falling immediately prior to its issuance up to (and including) the relevant Redemption Date.
- (b) Interest accrues during an Interest Period. Payment of Interest in respect of the Notes shall be made semi-annually in arrears to the Noteholders on each Interest Payment Date for the preceding Interest Period.
- (c) Interest shall be calculated on the basis of a 360-day year comprised of twelve months of 30 days each and, in case of an incomplete month, the actual number of days elapsed (30/360-days basis).
- (d) If the Issuer fails to pay any amount payable by it under the Finance Documents on its due date, default interest shall accrue on the overdue amount from (but excluding) the due date up to (and including) the date of actual payment at a rate which is two (2) per cent. higher than the Interest Rate. Accrued default interest shall not be capitalised. No default interest shall accrue where the failure to pay was solely attributable to the Agent or the CSD, in which case the Interest Rate shall apply instead.

9. Redemption and Repurchase of the Notes

9.1 Redemption at maturity

The Issuer shall redeem all, but not only some, of the outstanding Notes in full on the Final Maturity Date with an amount per Note equal to the Nominal Amount together with accrued but unpaid Interest. If the Final Maturity Date is not a Business Day, then the redemption shall occur on the Business Day following from an application of the Business Day Convention.

9.2 The Group Companies' purchase of Notes

The Issuer and any other Group Company may, subject to applicable law, at any time and at any price purchase Notes on the market or in any other way.

9.3 Voluntary Total Redemption

- (a) The Issuer may redeem all, but not only some, of the outstanding Notes in full with an amount per Note equal to the Call Option Amount applicable to the

relevant period for the repayment of the Nominal Amount together with accrued but unpaid Interest.

- (b) Redemption in accordance with Clause 9.3(a) shall be made by the Issuer giving not less than twenty (20) Business Days' notice prior to the relevant Redemption Date to the Noteholders and the Agent and in accordance with the instructions of the Issuer or the Issuing Agent, as applicable. The notice is irrevocable but may, at the Issuer's discretion, contain one or more conditions precedent. Upon fulfilment of the conditions precedent (if any), the Issuer is bound to redeem the Notes in full at the applicable amount on the specified Redemption Date.

9.4 Special Redemption

Following the occurrence of an Equity Listing Event or a Change of Control Event, the Issuer may, subject to the conditions below, from (but excluding) the First Issue Date up to (but excluding) the First Call Date and no later than 150 days from the Equity Listing Event or Change of Control Event (as applicable) issue a notice of repayment to the Noteholders and the Agent. The Issuer shall (i) after no less than 20 days' following such notice of repayment redeem the Notes in whole, or (ii) after no less than 30 days' following such notice of repayment make a partial repayment of the Nominal Amount (*pro rata* on all outstanding Notes), provided that the Nominal Amount must be at least EUR 60,000 per each Note after such partial redemption, in each case the repayment per Note shall equal the repaid percentage of the Nominal Amount (rounded down to the nearest EUR (1.00)) plus (i) a premium of 1.600% on the repaid amount, and (ii) accrued but unpaid interest on the repaid amount (the "**Special Redemption Option**"), provided that:

- (a) in relation to a Change of Control Event only, the Issuer may only exercise the Special Redemption Option if the related call option notice includes:
 - (i) a statement of the Issuer's decision to exercise the Special Redemption Option,
 - (ii) details on if the Special Redemption Option will be utilised in full or in part, and
 - (iii) if in part, the maximum proportion of the Notes the Issuer will utilise the Special Redemption Option to redeem (in aggregate with the total Nominal Amount of the Notes redeemed in connection with the Put Option relating to such Change of Control), and
- (b) such redemption shall take place within 180 days of the date of (i) the closing of an Equity Listing Event and/or (ii) the occurrence of a Change of Control, as the case may be.

9.5 Mandatory Repurchase due to a Change of Control Event

- (a) Upon a Change of Control Event occurring, each Noteholder shall have the right to request that all, or only some, of its Notes be repurchased at a price per Note equal to 101.00 per cent. of the Nominal Amount together with

accrued but unpaid Interest, during a period of one hundred-fifty (150) days following a notice from the Issuer of the Change of Control Event pursuant to Clause 11.1(b) (after which time period such right shall lapse).

- (b) The notice from the Issuer pursuant to Clause 11.1(b) shall specify the repurchase date and include instructions about the actions that a Noteholder needs to take if it wants Notes held by it to be repurchased. If a Noteholder has so requested, and acted in accordance with the instructions in the notice from the Issuer, the Issuer shall repurchase the relevant Notes and the repurchase amount shall fall due on the repurchase date specified in the notice given by the Issuer pursuant to Clause 11.1(b). The repurchase date must fall on a date decided by the Issuer, no later than thirty (30) Business Days after the end of the period referred to in Clause 9.5(a).

9.6 General

- (a) The Issuer shall comply with the requirements of any applicable securities laws or regulations in connection with the repurchase of Notes. To the extent that the provisions of such laws and regulations conflict with the provisions in this Clause 9, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Clause 9 by virtue of the conflict.
- (b) Any Notes repurchased by the Issuer or any other Group Company pursuant to this Clause 9 may at the Issuer's or such other Group Company's discretion be retained and sold but not cancelled.

10. Transaction Security and Guarantees

10.1 Granting of the Transaction Security and Guarantees

- (a) As continuing Security for the due and punctual fulfilment of the Secured Obligations, the Unrestricted Guarantor, the Issuer and each Group Company party to any Security Document and/or the Guarantee and Adherence Agreement (subject to corporate law limitations) grants the Transaction Security and the Guarantees (as applicable) to the Secured Parties as represented by the Security Agent on the terms set out in the Security Documents and the Guarantee and Adherence Agreement (as applicable).
- (b) The Security Agent shall hold the Transaction Security and the Guarantees on behalf of the Secured Parties in accordance with the relevant Security Documents, the Guarantee and Adherence Agreement and the Intercreditor Agreement (as applicable). The Issuer shall, and shall procure that the Unrestricted Guarantor and each Group Company party to any Security Document and/or the Guarantee and Adherence Agreement will, enter into the Security Documents and/or the Guarantee and Adherence Agreement (as applicable) and perfect the Transaction Security in accordance with the Security Documents.
- (c) Unless and until the Security Agent has received instructions from the Agent to the contrary in accordance with the Intercreditor Agreement, the Security

Agent shall (without first having to obtain the Noteholders' consent), be entitled to enter into agreements with the Issuer or a third party or take any other actions, if it is, in the Security Agent's opinion, necessary for the purpose of maintaining, releasing or enforcing the Transaction Security or for the purpose of settling the Noteholders', the Super Senior Revolving Credit Facility Creditors', the Hedge Counterparty's or the Issuer's rights to the Transaction Security, in each case in accordance with the terms of the Security Documents, the Intercreditor Agreement and these Terms and Conditions and provided that such agreements or actions are not detrimental to the interests of the Noteholders.

- (d) The Agent shall be entitled to give instructions relating to the Transaction Security and the Guarantees to the Security Agent in accordance with the Intercreditor Agreement.

10.2 Replacement of the Super Senior Revolving Credit Facility

- (a) The Issuer shall from time to time be entitled to replace the Super Senior Revolving Credit Facility in full or in part (provided that if in part, only after prior approval from the Super Senior Revolving Credit Facility Creditors) with new debt facilities for general corporate purposes and/or working capital purposes and/or acquisitions and/or replace the Notes with new notes or debt facilities, provided that:
 - (i) the Transaction Security shall secure the new debt on the same terms, *mutatis mutandis*, as it secures the replaced debt, including the terms of the Intercreditor Agreement;
 - (ii) each new creditor(s) shall directly or through an agent or a trustee be a party to the Transaction Security;
 - (iii) the Security Agent shall hold the Transaction Security on behalf of the new creditors on the same terms, *mutatis mutandis*, as the Transaction Security is held by the Security Agent on behalf of the Secured Parties;
 - (iv) the new creditor(s) shall directly or through an agent or a trustee be a party to the Intercreditor Agreement; and
 - (v) the new creditor(s) shall have the same right to the Transaction Security and the Guarantees and the proceeds pertaining thereto as the previous Super Senior Revolving Credit Facility Creditor.
- (b) Provided that the terms set out in Clause 10.2(a) are complied with, the Security Agent may from time to time, at the request of the Issuer, amend vary and/or restate the Transaction Security on behalf of itself and the Secured Parties in order to release Security provided to an existing Secured Party (with the prior consent of such existing Secured Party) and/or to create Security in favour of such new creditor(s).

10.3 Intra-group restructurings

- (a) Subject to the terms of the Senior Finance Documents, a Group Company shall be entitled to make disposals of shares in Pledged Group Companies (a "**Share Disposal**") or Pledged Intercompany Loans (a "**Loan Disposal**") or merge (or undertake an analogous proceeding having similar effect, including without limitation any Permitted Merger) with another Group Company (a "**Merger**"), provided that:
- (i) in case of a Share Disposal, the transfer shall be made subject to the Security over such shares and the Issuer shall procure that the acquiring Group Company shall enter into any agreements, execute any documents and take all actions requested by the Security Agent for the purpose of maintaining Security over such Pledged Group Company;
 - (ii) in case of a Loan Disposal of a Pledged Intercompany Loan, the transfer shall be made subject to the Security over such Pledged Intercompany Loan and the Issuer shall procure that the acquiring Group Company and/or the debtor under such Pledged Intercompany Loan shall enter into any agreements, execute any documents and take all actions requested by the Security Agent for the purpose maintaining Security over such Pledged Intercompany Loan;
 - (iii) in case of a Merger, if the shares in the transferor Group Company but not the shares in the transferee Group Company are subject to the Transaction Security, the shares in the transferee Group Company are pledged to the Secured Parties on terms satisfactory to the Security Agent;
 - (iv) in case of a Merger, if the transferor Group Company but not the transferee Group Company is a Guarantor, the Issuer shall procure that the transferee Group Company shall accede to the Guarantee and Adherence Agreement as an Additional Guarantor;
 - (v) in case of a Merger, any Pledged Intercompany Loans transferred as a result of a Merger remain subject to the Transaction Security and the Issuer shall procure that the creditors and/or debtors under such Pledged Intercompany Loans shall enter into any agreements, execute any documents and take all actions requested by the Security Agent for the purpose of maintaining Security over such Pledged Intercompany Loans; and
 - (vi) in case of a Merger between the creditor under a Pledged Intercompany Loan and the debtor under that Pledged Intercompany Loans (following which the Pledged Intercompany Loan would be extinguished as a result of such Merger), the Security Agent's prior written consent (acting on the instructions of the facility agent under the Super Senior Revolving Credit Facility (acting in its sole discretion)) is obtained.

- (b) Notwithstanding anything to the contrary in paragraph (a) above, the Issuer may not enter into a Merger as transferor Group Company.
- (c) Subject to paragraph (b) above, the Security Agent shall in connection with a disposal made pursuant to paragraph (a) above, release the Transaction Security and/or Guarantees (as applicable) for the purpose of enabling such disposal.

10.4 Release and granting of security upon disposals

- (a) A Group Company shall be entitled to dispose of shares in a Pledged Group Company (a "**Disposed Company**") to a Person or entity not being a Group Company, provided that, prior to the disposal, Security is granted to the Secured Parties (represented by the Security Agent) over:
 - (i) shares in another Group Company (the "**Substitute Company**") on terms equivalent to the terms of other Security Documents and that, provided that the EBITDA of the Substitute Company (on a consolidated basis) amount to at least ninety (90) per cent. of the EBITDA of the Disposed Company (on a consolidated basis); or
 - (ii) the following assets:
 - (A) a bank account held by the disposing Group Company with a reputable bank (in the sole discretion of the Security Agent) (the "**Proceeds Account**") on terms similar to the terms of other Security Documents, to which account the Issuer and the disposing Group Company shall ensure that the cash purchase price (less transaction costs) for the Disposed Company is transferred directly from the purchaser; and
 - (B) any vendor loan granted by a disposing Group Company to a purchaser of the Disposed Company, on terms similar to the terms of other Security Documents.
- (b) Prior to a disposal in accordance with paragraph (a)(i) above, the Issuer shall provide to the Security Agent a certificate signed by authorized signatories of the Issuer setting out and certifying the EBITDA of the Disposed Company and the Substitute Company (each on a consolidated basis).
- (c) Subject to paragraph (a) above, a Disposed Company shall be entitled to repay Pledged Intercompany Loans, provided that:
 - (i) such payment is permitted pursuant to the Intercreditor Agreement; or
 - (ii) the Disposed Company makes such payment to (A) a Proceeds Account which is pledged in favour of the Secured Parties, or (B) a bank account held by the creditor under such Pledged Intercompany Loan, with a reputable bank (in the sole discretion of the Security Agent) which bank account, prior to the repayment of the Pledged Intercompany

Loan, has been granted as Security by such creditor on terms similar to the terms of other Security Documents.

- (d) A Group Company which has granted Security over a Proceeds Account may request that the Security Agent releases any funds (in whole or in part) standing to the credit on the Proceeds Account for the purpose of such Group Company's acquisition of shares in a target company (the "**Target Company**"), provided that (i) the Issuer provides evidence to the Security Agent that the purchase price (less refinancing debt, costs and taxes) for the shares in the Target Company corresponds to at least the amount to be released from the Proceeds Account, and (ii) the Issuer and such Group Company shall ensure that all shares in the Target Company are immediately following the acquisition pledged to the Secured Parties (represented by the Security Agent) on terms similar to the terms of other Security Documents and that such pledge is duly perfected as soon as possible.
- (e) The Security Agent shall not release any Security over the shares in a Disposed Company until the conditions set out in paragraph (a)(i) or (a)(ii) have been fulfilled.
- (f) When determining EBITDA for a company in this Clause 10.4, EBITDA shall be calculated for that company in the same manner as Group EBITDA is calculated for the Issuer.

10.5 Enforcement of Security and Guarantees

- (a) The Agent may only take any action to accelerate or enforce any Transaction Security or Guarantees in accordance with the terms of the Intercreditor Agreement. The Intercreditor Agreement contains a stand-still provision (binding upon the Secured Parties) relating to the enforcement of the Transaction Security and the Guarantees.
- (b) Upon an enforcement of the Transaction Security and/or the Guarantees, the proceeds shall be distributed in accordance with the Intercreditor Agreement.
- (c) All Security and/or Guarantees or arrangement having similar effects may be released by the Security Agent, without the need for any further referral to or authority from anyone, upon any enforcement provided that the proceeds are distributed in accordance with the provisions set out in the Intercreditor Agreement.

11. Information to Noteholders

11.1 Information from the Issuer

- (a) The Issuer shall make the following information available in the English language to the Noteholders by publication on the website of the Issuer:
 - (i) as soon as the same become available, but in any event within four (4) months after the end of each financial year, the annual audited consolidated financial statements of the Group and the annual audited

unconsolidated financial statements of the Issuer, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors; and

- (ii) as soon as the same become available, but in any event within two (2) months after the end of each quarter of its financial year, the quarterly interim unaudited consolidated reports of the Group and the quarterly interim unaudited unconsolidated reports of the Issuer, including a profit and loss account, a balance sheet, a cash flow statement and management commentary or report from the Issuer's board of directors.

When the Notes have been listed, the reports referred to under (i) and (ii) above, shall be made available in accordance with the rules and regulations of Nasdaq Stockholm (or any other Regulated Market, as applicable) (as amended from time to time) and the Swedish Securities Markets Act (*Sw. lag (2007:582) om värdepappersmarknaden*).

- (b) The Issuer shall immediately notify the Agent when the Issuer is or becomes aware of that a Change of Control Event is likely to occur and when a Change of Control Event has occurred, and shall provide the Agent with such further information as the Agent may request (acting reasonably) following receipt of such notice.
- (c) When the financial statements and other information are made available to the Noteholders pursuant to paragraph (a) above, the Issuer shall send copies of such financial statements and other information (specified by the Agent, acting reasonably) to the Agent.
- (d) The Issuer shall in connection with the incurrence of new Financial Indebtedness incurred pursuant to paragraphs (j) or (m) of the definition of "Permitted Debt" submit to the Agent a Compliance Certificate which shall contain calculations and figures in respect of the Incurrence Test.
- (e) The Issuer shall immediately notify the Agent (with full particulars) when the Issuer is or becomes aware of the occurrence of any event or circumstance which constitutes an Event of Default, or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing) constitute an Event of Default, and shall provide the Agent with such further information as it may reasonably request in writing following receipt of such notice. Should the Agent not receive such information, the Agent is entitled to assume that no such event or circumstance exists or can be expected to occur, provided that the Agent does not have actual knowledge of such event or circumstance.
- (f) The Issuer is only obliged to inform the Agent according to this Clause 11.1 if informing the Agent would not conflict with any applicable laws or, when the Notes are listed, the Issuer's registration contract with the Regulated Market. If such a conflict would exist pursuant to the listing contract with the Regulated Market or otherwise, the Issuer shall however be obliged to either seek

approval from the Regulated Market or undertake other reasonable measures, including entering into a non-disclosure agreement with the Agent, in order to be able to timely inform the Agent according to this Clause 11.1.

11.2 Information from the Agent

The Agent is entitled to disclose to the Noteholders any event or circumstance directly or indirectly relating to the Issuer or the Notes. Notwithstanding the foregoing, the Agent may if it considers it to be beneficial to the interests of the Noteholders delay disclosure or refrain from disclosing certain information other than in respect of an Event of Default that has occurred and is continuing.

11.3 Publication of Finance Documents

- (a) The latest version of these Terms and Conditions (including any document amending these Terms and Conditions) shall be available on the websites of the Issuer and the Agent.
- (b) The latest versions of the other Finance Documents shall be available to the Noteholders at the office of the Agent during normal business hours.

12. Incurrence Covenant

12.1 Incurrence Test

The Incurrence Test is met if, on the relevant test date:

- (a) Leverage is not greater than 3.75; and
- (b) no Event of Default is continuing or would occur upon the incurrence,

calculated in accordance with the calculation principles set out in Clause 12.2 (*Calculation Adjustments*), on a consolidated basis and based on the most recently delivered Financial Report.

12.2 Calculation Adjustments

- (a) The calculation of Leverage shall be made as per a testing date determined by the Issuer, falling no more than one month prior to the event relevant for the application of the Incurrence Test. The Net Interest Bearing Debt, Net Finance Charges and Group EBITDA shall be measured on the relevant testing date on a pro forma basis assuming the implementation of the proposed transaction in respect of which the Incurrence Test is being measured including the application of the net proceeds therefrom (in the case of new Financial Indebtedness, this shall be included where applicable, provided it is an interest bearing obligation (however, any cash balance resulting from the incurrence of the new Financial Indebtedness shall not reduce the Net Interest Bearing Debt).

- (b) The figures Group EBITDA and Net Finance Charges for the Relevant Period ending on the last day of the period covered by the most recent Financial Report shall be used when calculating Leverage, but adjusted so that:
 - (i) entities acquired or disposed of by the Group during the Relevant Period, or after the end of the Relevant Period but before the relevant testing date, shall be included or excluded (as applicable), pro forma for the entire Relevant Period;
 - (ii) any entity to be acquired with the proceeds from any new Financial Indebtedness shall be included, pro forma, for the entire Relevant Period; and
 - (iii) pro forma Group EBITDA shall be adjusted to take into account reasonable cost savings and/or synergies, provided that the aggregate amount of such cost savings and/or cost synergies may not exceed 10 per cent. of the pro forma Group EBITDA (as per 12.2(b)(i) above) in the Relevant Period.
- (c) Transaction Costs will be excluded from the total calculation of Leverage.

13. General Undertakings

13.1 General

The Issuer undertakes to (and shall, where applicable, procure that each other Group Company will and shall procure that each Obligor (pursuant to the Guarantee and Adherence Agreement) undertakes to) comply with the undertakings set out in this Clause 13 for as long as any Notes remain outstanding.

13.2 Distributions

- (a) The Issuer shall not:
 - (i) repurchase any of its own shares; or
 - (ii) redeem its share capital or other restricted equity with repayment to Shareholders.
- (b) No Obligor shall and shall ensure that no Group Company will:
 - (i) pay any dividend on its shares (other than dividends by a Subsidiary to its parent or payments by a Subsidiary that is not wholly-owned on a pro rata basis or on a basis that results in the receipt by the Issuer or a Subsidiary of dividends or distributions of greater value than the Issuer or such Subsidiary would receive on a pro rata basis);
 - (ii) repay or pay cash interest under any Shareholder Loans (including for the avoidance of doubt the Investor Loan) or other loans from Shareholders or any Investor Document; or

- (iii) grant any loans to the Shareholders or Affiliates of the Shareholders.
- (c) Notwithstanding paragraphs (a) and (b) above, a Restricted Payment may be made:
 - (i) following an Equity Listing Event provided that no Event of Default is continuing or would result from such Restricted Payment; and
 - (ii) in a maximum amount of EUR 250,000 per annum (by payments on Shareholder Loans or the Investor Loan or as dividend) to the owner(s) of the Issuer for service fees or administration costs in the group of holding companies.

(i) and (ii) above each being a "**Permitted Distribution**".
- (d) Permitted Distributions may only be made up to the Permitted Distributions Amount and any Permitted Distributions made shall decrease the Permitted Distribution Amount accordingly.
- (e) When the Issuer has made its annual audited consolidated financial statements of the Group available in accordance with Clause 11.1(a), then the Permitted Distribution Amount shall be increased or decreased (as the case may be) by fifty (50) per cent. of consolidated net profit or loss (defined as profit / (loss) as it appears on the Group's income statement prepared in accordance with the Accounting Principles) of the Group as set out in the financial statements (before taking into account any interest payable in kind on any Shareholder Loan).

13.3 Financial Indebtedness

No Obligor shall, and each Obligor shall procure that none of its Subsidiaries will, incur any additional Financial Indebtedness or maintain any existing Financial Indebtedness, provided however that the Issuer and the Subsidiaries have a right to incur and maintain Financial Indebtedness that constitutes Permitted Debt and, for the avoidance of doubt, any Financial Indebtedness incurred or maintained in compliance with these Terms and Conditions shall only be tested either on the First Issue Date or on the date of incurrence, as applicable.

13.4 Negative Pledge

No Obligor shall, and each Obligor shall procure that no Group Company will, create or allow to subsist, retain, provide, prolong or renew any guarantee (Sw. *borgen*, or its equivalent in any other jurisdiction) or Security over any of its/their assets (present or future) to secure any Financial Indebtedness, provided however that the Group Companies have a right to retain, allow to subsist, provide, prolong and renew any Permitted Security.

13.5 Additional Guarantors

The Issuer shall ensure that the Guarantor Coverage Test is met. If such test is not met, the Issuer shall procure that no later than 60 days thereafter, any Group Company

which is not a Guarantor shall accede to the Guarantee and Adherence Agreement as Additional Guarantor until the Guarantor Coverage Test is satisfied (calculated as if such Additional Guarantor(s) had been Guarantors on the date of the Guarantor Coverage Test and provided that, for the avoidance of doubt, if the Guarantor Coverage Test is satisfied within such time period no Default shall arise in respect thereof), in each case, subject to any limitations under mandatory laws.

13.6 Nature of Business

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

13.7 Dealings with Related Parties

Each Obligor shall, and shall procure that each Group Company shall, conduct all dealings with the direct and indirect shareholders of the Group Companies and/or any Affiliates of such direct and indirect shareholders at arm's length terms (or better) and in accordance with applicable transfer pricing, provided that this undertaking shall not apply to dealings between Group Companies which are made in the ordinary course of business.

13.8 Disposal of Assets

No Obligor shall, and each Obligor shall procure that no Material Group Company, sell or otherwise dispose of shares in any Material Group Company or of all or substantially all of its or any Material Group Company's assets to any Person not being the Issuer or any of its wholly-owned Subsidiaries which, in the case of a transfer of the shares in or the assets of a Guarantor, the acquiring Subsidiary is (or becomes) a Guarantor, unless the transaction is carried out at fair market value and on terms and conditions customary for such type of transaction and provided that it does not have a Material Adverse Effect. The Issuer shall notify the Agent of any such transaction and, upon request by the Agent, provide the Agent with any information relating to the transaction which the Agent deems necessary (acting reasonably).

13.9 Insurances

Each Obligor shall, and shall ensure that all other Group Companies will, maintain insurances on and in relation to its business and assets against those risks and to the extent as is commercially available and usual for companies carrying on the same or substantially similar business.

13.10 Listing of the Notes

The Issuer shall ensure that:

- (a) the Initial Notes and any Subsequent Notes issued on or before 180 days after the First Issue Date are listed on the corporate bond list of Nasdaq Stockholm or any other Regulated Market within 180 days after the First Issue Date, and

- (b) any Subsequent Notes issued later than 180 days after the First Issue Date are listed on the same market as the Initial Notes within 20 days after the issuance of such Subsequent Notes; and
- (c) that the Notes, once admitted to trading on the corporate bond list of Nasdaq Stockholm or any other Regulated Market, continue to be listed thereon for as long as any Note is outstanding (however, taking into account the rules and regulations of Nasdaq Stockholm or any other Regulated Market (as applicable) and the CSD (as amended from time to time) preventing trading in the Notes in close connection to the redemption of the Notes).

13.11 Intercompany Loans

- (a) The principal of any Pledged Intercompany Loan shall become subject to the Transaction Security and the Issuer shall, or ensure that the relevant grantor shall, enter into a loan pledge agreement with the Security Agent (in form and substance reasonably satisfactory to the Security Agent) for the purpose of creating Security over the principal of such Pledged Intercompany Loan in favour of the Secured Parties.
- (b) Interest under Pledged Intercompany Loans may be paid to the relevant creditor until the occurrence of an Event of Default.
- (c) The Pledged Intercompany Loans may only be repaid (or prepaid as the case may be) or contributed as equity to the relevant debtor with the Security Agent's prior written consent (acting on the instructions of the facility agent under the Super Senior Revolving Credit Facility (acting in its sole discretion)), but may always be repaid or prepaid to the extent the interest received by the Issuer under the other Intercompany Loans is not sufficient to service the payment obligations under these Terms and Conditions.

13.12 Subordination and accession to the Intercreditor Agreement

The following loans shall be subordinated to the Notes by way of the relevant creditor(s) and debtor(s) under such loans acceding to the Intercreditor Agreement:

- (a) Shareholder Loans and/or loans under the Investor Documents (other than the lenders under the Investor Loan);
- (b) Long Term Loans granted by a member of the Group to a Pledged Group Company and the principal amount of which in aggregate exceeds EUR 2,000,000 per debtor;
- (c) Long Term Loans with an aggregate principal amount exceeding EUR 2,000,000 per debtor and granted by a Group Company to a Group Company who is a creditor under a Pledged Intercompany Loan; and; and
- (d) Long Term Loans between Group Companies (other than Pledged Intercompany Loans) the principal amount of which in aggregate exceeds EUR 10,000,000 per debtor (other than loans to Polygon US Corporation and Polygon US Rapid Refile Corp).

14. Events of Default and Acceleration of the Notes

Each of the events or circumstances set out in this Clause 14 (other than Clause 14.10 (*Acceleration of the Notes*)) is an Event of Default.

14.1 Non-Payment

The Issuer or a Guarantor fails to pay an amount on the date it is due in accordance with the Finance Documents unless the non-payment:

- (a) is caused by technical or administrative error; and
- (b) is remedied within five (5) Business Days of the due date.

14.2 Other Obligations

Any of the Issuer, the Obligors, the Unrestricted Guarantor or any other party to a Finance Document (except for a Secured Party), fails to comply with or in any other way acts in violation of the Finance Documents to which such non-compliant entity is a party, in any other way than as set out in Clause 14.1 (*Non-Payment*), provided that such failure or violation of the Finance Documents continues unremedied twenty (20) Business Days after the Agent has urged the Issuer in writing to remedy such failure or violation.

14.3 Cross-Acceleration

Any Financial Indebtedness of a Group Company is not paid when due as extended by any originally applicable grace period, or is declared to be due and payable prior to its specified maturity as a result of an event of default (however described), provided that no Event of Default will occur under this Clause 14.3 if (i) the aggregate amount of Financial Indebtedness is less than EUR 2,000,000, (ii) the acceleration of the Financial Indebtedness referred to in this Clause 14.3 has not been cured within 10 days, and (iii) it is not Financial Indebtedness owed to a Group Company.

14.4 Insolvency

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

14.5 Insolvency Proceedings

Any corporate action, legal proceedings or other procedures are taken (other than (i) proceedings or petitions which are being disputed in good faith and are discharged, stayed or dismissed within thirty (30) calendar days of commencement or, if earlier,

the date on which it is advertised or (ii), in relation to Subsidiaries of the Issuer, solvent liquidations) in relation to:

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

14.6 Mergers and Demergers

Save with respect to any Permitted Merger, a decision is made that any Material Group Company shall be merged or demerged into a company which is not a Group Company, unless the Agent has given its consent (not to be unreasonably withheld or delayed) in writing prior to the merger and/or demerger (where consent is not to be understood as a waiver of the rights that applicable law at the time assigns the concerned creditors).

14.7 Creditors' Process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Material Group Company and is not discharged within thirty (30) calendar days.

14.8 Impossibility or Illegality

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

14.9 Continuation of the Business

The Group ceases to carry on its business as of the First Issue Date, other than pursuant to a merger (or any analogous proceedings having a similar effect) or demerger which is permitted under these Terms and Conditions.

14.10 Acceleration of the Notes

- (a) Subject to the terms of the Intercreditor Agreement, if an Event of Default has occurred and is continuing at the time of the Agent's declaration of the Event of Default, the Agent is entitled to, on behalf of the Noteholders (i) by notice to the Issuer, declare all, but not only some, of the Notes due for payment together with any other amounts payable under the Finance Documents, immediately or at such later date as the Agent determines (but such date may not fall after the Final Maturity Date), and (ii) exercise any or all of its rights,

remedies, powers and discretions under the Finance Documents, provided in each case that:

- (i) in case of an Event of Default set out in Clause 14.2 (*Other Obligations*) to and including 14.3 (*Cross-Acceleration*), such Event of Default has a Material Adverse Effect; and
 - (ii) in case of an Event of Default set out in Clauses 14.4 (*Insolvency*) to and including 14.9 (*Continuation of the Business*) and which is attributable to a Group Company (other than the Issuer), such Event of Default has a Material Adverse Effect.
- (b) If the Noteholders (in accordance with these Terms and Conditions) instruct the Agent to accelerate the Notes, the Agent shall, provided that the provisions of the Intercreditor Agreement has been complied with, promptly declare the Notes due and payable and take such actions as, in the opinion of the Agent, may be necessary or desirable to enforce the rights of the Noteholders under the Finance Documents, unless the relevant Event of Default is no longer continuing.
 - (c) If the right to accelerate the Notes is based upon a decision of a court of law or a government authority, it is not necessary that the decision has become enforceable under law or that the period of appeal has expired in order for cause of acceleration to be deemed to exist.
 - (d) In the event of an acceleration of the Notes in accordance with this Clause 14, the Issuer shall redeem all Notes with an amount equal to the redemption amount specified in Clause 9.3 (*Voluntary Total Redemption*), as applicable considering when the acceleration occurs.

15. Distribution of Proceeds

- (a) Subject to the terms of the Intercreditor Agreement, all payments by the Issuer relating to the Notes and the other Senior Finance Documents and any proceeds received from an enforcement of the Transaction Security and/or the Guarantees shall be distributed in accordance with the Intercreditor Agreement in the following order of priority:
 - (i) firstly, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by the Issuer to the Security Agent under the Agency Agreement;
 - (ii) secondly, in or towards payment *pro rata* of unpaid fees, costs, expenses and indemnities payable by the Issuer to the Issuing Agent, the agent under the Super Senior Revolving Credit Facility Agreement and the Agent;
 - (iii) thirdly, towards payment *pro rata* of accrued interest unpaid under the Super Senior Revolving Credit Facility Documents;

- (iv) fourthly, towards payment *pro rata* of principal under the Super Senior Revolving Credit Facility Documents and any other costs or outstanding amounts under the Super Senior Revolving Credit Facility Documents, and any close out amount and any other outstanding amounts under the Hedging Obligations;
- (v) fifthly, towards payment of accrued interest unpaid under the Notes (interest due on an earlier Interest Payment Date to be paid before any interest due on a later Interest Payment Date);
- (vi) sixthly, towards payment of principal under the Notes;
- (vii) seventhly, in or towards payment *pro rata* of any other costs or outstanding amounts unpaid under the final terms and conditions for the Notes;
- (viii) eighthly, after the Final Discharge Date (as defined in the Intercreditor Agreement), towards payment *pro rata* of accrued interest unpaid and principal under the Shareholder Debt (as defined in the Intercreditor Agreement);
- (ix) ninthly, after the Final Discharge Date (as defined in the Intercreditor Agreement), towards payment *pro rata* of accrued interest unpaid and principal under the Intercompany Debt (as defined in the Intercreditor Agreement); and
- (x) tenthly, after the Final Discharge Date (as defined in the Intercreditor Agreement), in payment of the surplus (if any) to the relevant ICA Group Company (as defined in the Intercreditor Agreement) or other Person entitled to it.

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

- (b) Funds that the Agent receives (directly or indirectly) in connection with the acceleration of the Notes or the enforcement of the Transaction Security and/or the Guarantees shall constitute escrow funds (*Sw. redovisningsmedel*) and must be promptly turned over to the Security Agent to be applied in accordance with the Intercreditor Agreement.

16. Decisions by Noteholders

- (a) Any decision by the Noteholders on a matter relating to the Finance Documents shall (at the option of the Agent) be dealt with at a Noteholders' Meeting or by way of a Written Procedure.
- (b) Any request from the Issuer or a Noteholder (or Noteholders) representing at least ten (10) per cent. of the Adjusted Nominal Amount (such request may only be validly made by a Person who is a Noteholder on the Business Day immediately following the day on which the request is received by the Agent

and shall, if made by several Noteholders, be made by them jointly) for a decision by the Noteholders on a matter relating to the Finance Documents shall be directed to the Agent and dealt with at a Noteholders' Meeting or by way a Written Procedure, as determined by the Agent. The Person requesting the decision may suggest the form for decision making, but if it is in the Agent's opinion more appropriate that a matter is dealt with at a Noteholders' Meeting than by way of a Written Procedure, it shall be dealt with at a Noteholders' Meeting.

- (c) The Agent may refrain from convening a Noteholders' Meeting or instigating a Written Procedure if (i) the suggested decision must be approved by any Person in addition to the Noteholders and such Person has informed the Agent that an approval will not be given, or (ii) the suggested decision is not in accordance with applicable laws.
- (d) Only a Person who is, or who has been provided with a power of attorney pursuant to Clause 6 (*Right to Act on Behalf of a Noteholder*) from a Person who is, registered as a Noteholder:
 - (i) on the Record Date prior to the date of the Noteholders' Meeting, in respect of a Noteholders' Meeting, or
 - (ii) on the Business Day specified in the communication pursuant to Clause 18(c), in respect of a Written Procedure,

may exercise voting rights as a Noteholder at such Noteholders' Meeting or in such Written Procedure, provided that the relevant Notes are included in the definition of Adjusted Nominal Amount.

- (e) Subject to Clause 16(f), the following matters shall require the consent of Noteholders representing at least sixty-six and two thirds ($66 \frac{2}{3}$) per cent. of the Adjusted Nominal Amount for which Noteholders are voting at a Noteholders' Meeting or for which Noteholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18(c):
 - (i) a waiver of a breach of an undertaking set out in Clause 13 (*General Undertakings*) with the exception of Clause 13.12 (*Subordination and accession to the Intercreditor Agreement*); and
 - (ii) an amendment to any provision in the Finance Documents.
- (f) The following matters shall require the consent of Noteholders representing at least seventy-five (75) per cent. of the Adjusted Nominal Amount for which Noteholders are voting at a Noteholders' Meeting or for which Noteholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18(c):
 - (i) a change to the terms dealing with the requirements for Noteholders' consent set out in this Clause 16;

- (ii) to reduce the principal amount, interest rate or interest amount which shall be paid by the Issuer;
 - (iii) to amend any payment day for principal or interest amount or waive any breach of a payment undertaking;
 - (iv) an extension of the tenor of the Notes or any of the due date for payment of any principal or interest on the Notes; and
 - (v) a mandatory exchange of the Notes for other securities.
- (g) Any matter not covered by Clause 16(e) or 16(f) shall require the consent of Noteholders representing more than fifty (50) per cent. of the Adjusted Nominal Amount for which Noteholders are voting at a Noteholders' Meeting or for which Noteholders reply in a Written Procedure in accordance with the instructions given pursuant to Clause 18(c). This includes, but is not limited to, any amendment to, or waiver of, the terms of any Finance Document that does not require a higher majority (other than an amendment permitted pursuant to Clause 19(a)(i) or 19(a)(ii)) or the enforcement of any Transaction Security.
- (h) Quorum at a Noteholders' Meeting or in respect of a Written Procedure only exists if a Noteholder (or Noteholders) representing at least twenty (20) per cent. of the Adjusted Nominal Amount:
 - (i) if at a Noteholders' Meeting, attend the meeting in Person or by telephone conference (or appear through duly authorised representatives); or
 - (ii) if in respect of a Written Procedure, reply to the request.
- (i) If a quorum does not exist at a Noteholders' Meeting or in respect of a Written Procedure, the Agent or the Issuer shall convene a second Noteholders' Meeting (in accordance with Clause 17(a)) or initiate a second Written Procedure (in accordance with Clause 18(a)), as the case may be, provided that the relevant proposal has not been withdrawn by the Person(s) who initiated the procedure for Noteholders' consent. The quorum requirement in Clause 16(h) shall not apply to such second Noteholders' Meeting or Written Procedure.
- (j) Any decision which extends or increases the obligations of the Issuer or the Agent, or limits, reduces or extinguishes the rights or benefits of the Issuer or the Agent, under the Finance Documents shall be subject to the Issuer's or the Agent's consent, as applicable.
- (k) A Noteholder holding more than one Note need not use all its votes or cast all the votes to which it is entitled in the same way and may in its discretion use or cast some of its votes only.
- (l) The Issuer may not, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Noteholder for or as inducement to any consent under these Terms and Conditions, unless such consideration is

offered to all Noteholders that consent at the relevant Noteholders' Meeting or in a Written Procedure within the time period stipulated for the consideration to be payable or the time period for replies in the Written Procedure, as the case may be.

- (m) A matter decided at a duly convened and held Noteholders' Meeting or by way of Written Procedure is binding on all Noteholders, irrespective of them being present or represented at the Noteholders' Meeting or responding in the Written Procedure. The Noteholders that have not adopted or voted for a decision shall not be liable for any damages that this may cause other Noteholders.
- (n) All reasonable costs and expenses incurred by the Issuer or the Agent for the purpose of convening a Noteholders' Meeting or for the purpose of carrying out a Written Procedure, including reasonable fees to the Agent, shall be paid by the Issuer.
- (o) If a decision shall be taken by the Noteholders on a matter relating to the Finance Documents, the Issuer shall promptly at the request of the Agent provide the Agent with a certificate specifying the number of Notes owned by Group Companies, irrespective of whether such Person is directly registered as owner of such Notes. The Agent shall not be responsible for the accuracy of such certificate or otherwise be responsible to determine whether a Note is owned by a Group Company.
- (p) Information about decisions taken at a Noteholders' Meeting or by way of a Written Procedure shall promptly be sent by notice to the Noteholders and published on the websites of the Issuer and the Agent, provided that a failure to do so shall not invalidate any decision made or voting result achieved. The minutes from the relevant Noteholders' Meeting or Written Procedure shall at the request of a Noteholder be sent to it by the Issuer or the Agent, as applicable.

17. Noteholders' Meeting

- (a) The Agent shall convene a Noteholders' Meeting by sending a notice thereof to each Noteholder no later than five (5) Business Days after receipt of a request from the Issuer or the Noteholder(s) (or such later date as may be necessary for technical or administrative reasons).
- (b) Should the Issuer want to replace the Agent, it may convene a Noteholders' Meeting in accordance with Clause 17(a) with a copy to the Agent. After a request from the Noteholders pursuant to Clause 20.4(c), the Issuer shall no later than five (5) Business Days after receipt of such request (or such later date as may be necessary for technical or administrative reasons) convene a Noteholders' Meeting in accordance with Clause 17(a).
- (c) The notice pursuant to Clause 17(a) shall include (i) time for the meeting, (ii) place for the meeting, (iii) agenda for the meeting (including each request for a decision by the Noteholders) and (iv) a form of power of attorney. Only matters that have been included in the notice may be resolved upon at the

Noteholders' Meeting. Should prior notification by the Noteholders be required in order to attend the Noteholders' Meeting, such requirement shall be included in the notice.

- (d) The Noteholders' Meeting shall be held no earlier than eight (8) Business Days and no later than twenty (20) Business Days from the notice.
- (e) If the Agent, in breach of these Terms and Conditions, has not convened a Noteholders' Meeting within 20 Banking Days after having received such notice, the requesting Person may convene the Noteholders' Meeting itself. If the requesting Person is a Noteholder, the Issuer shall upon request from such Noteholder provide the Noteholder with necessary information from the register kept by the CSD and, if no Person to open the Noteholders' Meeting has been appointed by the Agent, the meeting shall be opened by a Person appointed by the requesting Person.
- (f) At a Noteholders' Meeting, the Issuer, the Noteholders (or the Noteholders' representatives/proxies) and the Agent may attend along with each of their representatives, counsels and assistants. Further, the directors of the board, the managing director and other officials of the Issuer and the Issuer's auditors may attend the Noteholders' Meeting. The Noteholders' Meeting may decide that further individuals may attend. If a representative/proxy shall attend the Noteholders' Meeting instead of the Noteholder, the representative/proxy shall present a duly executed proxy or other document establishing its authority to represent the Noteholder.
- (g) Without amending or varying these Terms and Conditions, the Agent may prescribe such further regulations regarding the convening and holding of a Noteholders' Meeting as the Agent may deem appropriate. Such regulations may include a possibility for Noteholders to vote without attending the meeting in Person.

18. Written Procedure

- (a) The Agent shall instigate a Written Procedure no later than five (5) Business Days after receipt of a request from the Issuer or the Noteholder(s) (or such later date as may be necessary for technical or administrative reasons) by sending a communication to each such Person who is registered as a Noteholder on the Business Day prior to the date on which the communication is sent.
- (b) Should the Issuer want to replace the Agent, it may send a communication in accordance with Clause 18(a) to each Noteholder with a copy to the Agent.
- (c) A communication pursuant to Clause 18(a) shall include (i) each request for a decision by the Noteholders, (ii) a description of the reasons for each request, (iii) a specification of the Business Day on which a Person must be registered as a Noteholder in order to be entitled to exercise voting rights, (iv) instructions and directions on where to receive a form for replying to the request (such form to include an option to vote yes or no for each request) as well as a form of power of attorney, and (v) the stipulated time period within which the

Noteholder must reply to the request (such time period to last at least eight (8) Business Days from the communication pursuant to Clause 18(a)). If the voting shall be made electronically, instructions for such voting shall be included in the communication.

- (d) When the requisite majority consents of the total Adjusted Nominal Amount pursuant to Clauses 16(e), 16(f) and 16(g) have been received in a Written Procedure, the relevant decision shall be deemed to be adopted pursuant to Clause 16(e), 16(f) or 16(g), as the case may be, even if the time period for replies in the Written Procedure has not yet expired.

19. Amendments and Waivers

- (a) Subject to the terms of the Intercreditor Agreement, the Issuer and the Agent (acting on behalf of the Noteholders) may agree to amend the Finance Documents or waive any provision in a Finance Document, provided that:
 - (i) such amendment or waiver is not detrimental to the interest of the Noteholders, or is made solely for the purpose of rectifying obvious errors and mistakes;
 - (ii) such amendment or waiver is required by applicable law, a court ruling or a decision by a relevant authority; or
 - (iii) such amendment or waiver has been duly approved by the Noteholders in accordance with Clause 16 (*Decisions by Noteholders*).
- (b) The Agent shall promptly notify the Noteholders of any amendments or waivers made in accordance with Clause 19(a), setting out the date from which the amendment or waiver will be effective, and the Agent and the Issuer shall ensure that any amendments to the Finance Documents are published and/or made available (as applicable) in the manner stipulated in Clause 11.3 (*Publication of Finance Documents*). The Issuer shall ensure that any amendments to the Finance Documents are duly registered with the CSD and each other relevant organisation or authority.
- (c) The consent of the Noteholders is not necessary to approve the particular form of any amendment to the Finance Documents. It is sufficient if such consent approves the substance of the amendment.
- (d) An amendment to the Finance Documents shall take effect on the date determined by the Noteholders Meeting, in the Written Procedure or by the Agent, as the case may be.

20. Appointment and Replacement of the Agent

20.1 Appointment of Agent

- (a) By subscribing for Notes, each initial Noteholder appoints:

- (i) the Agent to act as its agent in all matters relating to the Notes and the Finance Documents, and authorises the Agent to act on its behalf (without first having to obtain its consent, unless such consent is specifically required by these Terms and Conditions) in any legal or arbitration proceedings relating to the Notes held by such Noteholder; and
 - (ii) confirms the appointment under the Intercreditor Agreement of the Security Agent to act as its agent in all matters relating to the Transaction Security, the Security Documents, the Guarantees and the Guarantee and Adherence Agreement, including any legal or arbitration proceeding relating to the perfection, preservation, protection or enforcement of the Transaction Security and the Guarantees and acknowledges and agrees that the rights, obligations, role of and limitations of liability for the Security Agent is further regulated in the Intercreditor Agreement.
- (b) By acquiring Notes, each subsequent Noteholder confirms the appointment and authorisation for the Agent and the Security Agent to act on its behalf as set out in paragraph (a).
- (c) Each Noteholder shall immediately upon request provide the Agent and the Security Agent with any such documents, including a written power of attorney (in form and substance satisfactory to the Agent or the Security Agent, as applicable), that the Agent or Security Agent (as applicable) deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents. Neither the Agent nor the Security Agent is under any obligation to represent a Noteholder which does not comply with such request.
- (d) The Issuer shall promptly upon request provide the Agent with any documents and other assistance (in form and substance satisfactory to the Agent), that the Agent deems necessary for the purpose of exercising its rights and/or carrying out its duties under the Finance Documents.
- (e) The Agent is entitled to fees for its work and to be indemnified for costs, losses and liabilities on the terms set out in the Finance Documents and the Agency Agreement and the Agent's obligations as Agent under the Finance Documents are conditioned upon the due payment of such fees and indemnifications.
- (f) The Agent may only act as agent or trustee for several issues of securities issued by or relating to the Issuer and other Group Companies where these issues are ranked *pari passu* and do not otherwise entail any obvious conflicts of interest for the Agent.

20.2 Duties of the Agent

- (a) The Agent shall represent the Noteholders in accordance with the Finance Documents, and, where relevant, in relation to instructions to the Security Agent to enforce the Transaction Security or the Guarantees on behalf of the Noteholders.

- (b) When acting in accordance with the Finance Documents, the Agent is always acting with binding effect on behalf of the Noteholders. The Agent shall carry out its duties under the Finance Documents in a reasonable, proficient and professional manner, with reasonable care and skill.
- (c) The Agent is entitled to delegate its duties to other professional parties, provided that such professional parties are selected with due care and subject to that the Agent shall remain liable for the actions of such parties under the Finance Documents.
- (d) The Agent shall treat all Noteholders equally and, when acting pursuant to the Finance Documents, act with regard only to the interests of the Noteholders and shall not be required to have regard to the interests or to act upon or comply with any direction or request of any other Person, other than as explicitly stated in the Finance Documents.
- (e) The Agent is entitled to engage external experts when carrying out its duties under the Finance Documents. The Issuer shall on demand by the Agent pay all reasonable costs for external experts engaged after the occurrence of an Event of Default, or for the purpose of investigating or considering (i) an event which the Agent reasonably believes is or may lead to an Event of Default or (ii) a matter relating to the Issuer which the Agent reasonably believes may be detrimental to the interests of the Noteholders under the Finance Documents. Any compensation for damages or other recoveries received by the Agent from external experts engaged by it for the purpose of carrying out its duties under the Finance Documents shall be distributed in accordance with Clause 15 (*Distribution of Proceeds*).
- (f) Notwithstanding any other provision of the Finance Documents to the contrary, the Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation.
- (g) If in the Agent's reasonable opinion the cost, loss or liability which it may incur (including reasonable fees to the Agent) in complying with instructions of the Noteholders, or taking any action at its own initiative, will not be covered by the Issuer, the Agent may refrain from acting in accordance with such instructions, or taking such action, until it has received such indemnities (or adequate Security has been provided therefore) as it may reasonably require.

20.3 Limited liability for the Agent

- (a) The Agent will not be liable to the Noteholders for damage or loss caused by any action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its negligence or wilful misconduct. The Agent shall never be responsible for indirect loss.
- (b) The Agent shall not be considered to have acted negligently if it has acted in accordance with advice from or opinions of reputable external experts engaged by the Agent or if the Agent has acted with reasonable care in a situation when the Agent considers that it is detrimental to the interests of the

Noteholders to delay the action in order to first obtain instructions from the Noteholders.

- (c) The Agent shall not be liable for any delay (or any related consequences) in crediting an account with an amount required pursuant to the Finance Documents to be paid by the Agent to the Noteholders, provided that the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- (d) The Agent shall have no liability to the Noteholders for damage caused by the Agent acting in accordance with instructions of the Noteholders given in accordance with Clause 16 (*Decisions by Noteholders*) or a demand by Noteholders given pursuant to Clause 14.10(a).
- (e) Any liability towards the Issuer which is incurred by the Agent in acting under, or in relation to, the Finance Documents shall not be subject to set-off against the obligations of the Issuer to the Noteholders under the Finance Documents.

20.4 Replacement of the Agent

- (a) Subject to Clause 20.4(f), the Agent may resign by giving notice to the Issuer and the Noteholders, in which case the Noteholders shall appoint a successor Agent at a Noteholders' Meeting convened by the retiring Agent or by way of Written Procedure initiated by the retiring Agent.
- (b) Subject to Clause 20.4(f), if the Agent is Insolvent, the Agent shall be deemed to resign as Agent with immediate effect and the Issuer shall within ten (10) Business Days appoint a successor Agent which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- (c) A Noteholder (or Noteholders) representing at least ten (10) per cent. of the Adjusted Nominal Amount may, by notice to the Issuer (such notice may only be validly given by a Person who is a Noteholder on the Business Day immediately following the day on which the notice is received by the Issuer and shall, if given by several Noteholders, be given by them jointly), require that a Noteholders' Meeting is held for the purpose of dismissing the Agent and appointing a new Agent. The Issuer may, at a Noteholders' Meeting convened by it or by way of Written Procedure initiated by it, propose to the Noteholders that the Agent be dismissed and a new Agent appointed.
- (d) If the Noteholders have not appointed a successor Agent within ninety (90) days after (i) the earlier of the notice of resignation was given or the resignation otherwise took place or (ii) the Agent was dismissed through a decision by the Noteholders, the Issuer shall appoint a successor Agent which shall be an independent financial institution or other reputable company which regularly acts as agent under debt issuances.
- (e) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor

Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.

- (f) The Agent's resignation or dismissal shall only take effect upon the appointment of a successor Agent and acceptance by such successor Agent of such appointment and the execution of all necessary documentation to effectively substitute the retiring Agent.
- (g) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of the Finance Documents and remain liable under the Finance Documents in respect of any action which it took or failed to take whilst acting as Agent. Its successor, the Issuer and each of the Noteholders shall have the same rights and obligations amongst themselves under the Finance Documents as they would have had if such successor had been the original Agent.
- (h) In the event that there is a change of the Agent in accordance with this Clause 20.4, the Issuer shall execute such documents and take such actions as the new Agent may reasonably require for the purpose of vesting in such new Agent the rights, powers and obligation of the Agent and releasing the retiring Agent from its further obligations under the Finance Documents and the Agency Agreement.

21. Appointment and Replacement of the Issuing Agent

- (a) The Issuer appoints the Issuing Agent to manage certain specified tasks under these Terms and Conditions and in accordance with the legislation, rules and regulations applicable to and/or issued by the CSD and relating to the Notes.
- (b) The Issuing Agent may retire from its assignment or be dismissed by the Issuer, provided that the Issuer has approved that a commercial bank or securities institution approved by the CSD accedes as new Issuing Agent at the same time as the old Issuing Agent retires or is dismissed. If the Issuing Agent is Insolvent, the Issuer shall immediately appoint a new Issuing Agent, which shall replace the old Issuing Agent as issuing agent in accordance with these Terms and Conditions.

22. No Direct Actions by Noteholders

- (a) A Noteholder may not take any steps whatsoever against the Issuer or any other Group Company or with respect to the Transaction Security to enforce or recover any amount due or owing to it pursuant to the Finance Documents, or to initiate, support or procure the winding-up, dissolution, liquidation, company reorganisation (Sw. *företagsrekonstruktion*) or bankruptcy (Sw. *konkurs*) (or its equivalent in any other jurisdiction) of the Issuer in relation to any of the liabilities of the Issuer or any other Group Company under the Finance Documents.

- (b) Clause 22(a) shall not apply if (i) the Agent has been instructed by the Noteholders in accordance with these Terms and Conditions to take certain actions but is legally unable to take such actions, or (ii) the Security Agent has been instructed by the Instructing Group (as defined in the Intercreditor Agreement) in accordance with the Intercreditor Agreement to enforce the Transaction Security and/or Guarantees but is legally unable to take such enforcement actions.

23. Prescription

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

24. Notices

- (a) Any notice or other communication to be made under or in connection with the Finance Documents:
 - (i) if to the Agent, shall be given at the address registered with the Swedish Companies Registration Office (*Sw. Bolagsverket*) on the Business Day prior to dispatch or, if sent by email by the Issuer, to such email address notified by the Agent to the Issuer from time to time;
 - (ii) if to the Issuer, to the following address or e-mail (or such other e-mail address as notified by the Issuer to the Agent from time to time):

Polygon AB (publ)
Attention: Mats Norberg

Sveavägen 9
111 57 Stockholm
Sweden

E-mail: mats.norberg@polygroupon.com with a copy (not serving as a notice) to: leijonqvist.wp@triton-partners.com

- (iii) if to the Noteholders, shall be given at their addresses as registered with the CSD, on the Business Day prior to dispatch, and by either courier delivery or letter for all Noteholders.
- (b) Any notice to the Noteholders shall also be published on the websites of the Issuer and the Agent.
- (c) Any notice or other communication made by one Person to another under or in connection with the Finance Documents shall be sent by way of courier, personal delivery or letter and will only be effective, in case of courier or personal delivery, when it has been left at the address specified in Clause 24(a) or, in case of letter, three (3) Business Days after being deposited postage prepaid in an envelope addressed to the address specified in Clause 24(a).
- (d) If any notice or other communication made by the Agent to the Issuer or the Issuer to the Agent under or in connection with the Finance Documents is sent by email, it will be effective on the day of dispatch (unless a delivery failure message was received by the Agent or the Issuer), save that any notice or other communication sent by email that is sent after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

25. Governing Law and Jurisdiction

- (a) These Terms and Conditions, and any non-contractual obligations arising out of or in connection therewith, shall be governed by and construed in accordance with the laws of Sweden.
- (b) The Issuer submits to the non-exclusive jurisdiction of the City Court of Stockholm (Sw. *Stockholms tingsrätt*).
- (c) Paragraphs (a) and (b) above shall not limit the right of the Agent (or the Noteholders, as applicable) to take proceedings against the Issuer in any court which may otherwise exercise jurisdiction over the Issuer or any of its assets.

We hereby certify that the above terms and conditions are binding upon ourselves.