

DATED 2 JULY 2021

LONDON SOUTHEND AIRPORT COMPANY LIMITED
as Borrower

STOBART AVIATION LIMITED

CGIOF RIVER S.À R.L
as Lender

FACILITY AGREEMENT

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THIS AGREEMENT is dated 2 July 2021 and made between:

- (1) **LONDON SOUTHEND AIRPORT COMPANY LIMITED**, a company incorporated in England and Wales with registered number 02881745 as the borrower (the ***Borrower***);
- (2) **THE COMPANIES** listed in Schedule 1 (*The Original Obligors*) as original guarantors (together with the Borrower, the ***Original Guarantors***);
- (3) **CGIOF RIVER S.À R.L.**, a company incorporated in Luxembourg with company number B254587 (the ***Lender***); and
- (4) **STOBART AVIATION LIMITED**, a company incorporated in England and Wales with registered number 10756283 (as ***Esken Shareholder***).

IT IS AGREED as follows:

1. Definitions and interpretation

1.1 Definitions

In this Agreement:

Acceptable Bank means

- (a) a bank or financial institution which has (i) a rating for its long-term unsecured and non-credit-enhanced debt obligations of BBB or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa2 or higher by Moody's Investor Services Limited; or (ii) a rating for its short-term unsecured and non-credit-enhanced debt obligations of A-1 by Standard & Poor's Rating Services, F-1 by Fitch Ratings Ltd or P-1 by Moody's Investor Services Limited; or (iii) a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Lender;

Accession Letter means a document substantially in the form set out in Schedule 7 (Form of Accession Letter);

Additional Guarantor means a company which becomes an Additional Guarantor in accordance with Clause 27 (*Changes to the Obligors*);

Additional Obligor means an Additional Guarantor;

Adjusted EBITDA means EBITDA adjusted to deduct maintenance capital expenditure;

Adjusted EBITDA UTE means a Band 1 Adjusted EBITDA UTE or a Band 2 Adjusted EBITDA UTE as the case may be;

Alternative Financing means any third-party financing procured by the Lender or the Borrower, the proceeds of which are to be applied in repayment of the Pari Passu Loan, provided that the terms of such financing are, in opinion of the Borrower (acting reasonably) (i) cost-effective for the Borrower Group; (ii) consistent with the financial principles which apply to Borrower; and (iii) otherwise satisfactory to the Borrower;

Annual Budget means the annual budget, as prepared by the Operational Committee of the Borrower and approved by the Board and (for so long as Esken remains a listed entity) the board of Esken, covering the 12 month period commencing at the start of each Financial Year and as revised on an annual basis in respect of each subsequent Financial Year;

Anti-Corruption Laws means laws, regulations or orders relating to anti-bribery or anti-corruption (governmental or commercial) including, without limitation, laws that prohibit the corrupt payment, offer, promise, or authorization of the payment or transfer of anything of value (including gifts or entertainment), directly or indirectly, to any Government Official, commercial entity, or any other person to obtain an improper business advantage such as, without limitation, the UK Bribery Act of 2010 in each case to the extent applicable to the Borrower or any other member of the Borrower Group;

Anti-Money Laundering Laws means laws, regulations, rules or guidelines (having the force of law) relating to money laundering, including, without limitation, financial recordkeeping and reporting requirements, such as, without limitation, Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 (“AML 5”) and all national and international laws enacted to implement AML 5, the Luxembourg Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended, the UK Proceeds of Crime Act 2002, the UK Terrorism Act 2000, as amended, in each case to the extent applicable to the Borrower or any other member of the Borrower Group;

Asset-Financing Arrangement means the asset financing arrangements as existing at the date of this Agreement and as detailed in Schedule 9 (*Asset-Financing Arrangements*) and any replacement or additional permitted non-recourse asset-financing arrangements (and for the purposes of this definition, non-recourse means that the creditor has recourse only to the assets subject to such financing arrangements and not to any other assets of the Borrower Group);

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

Available Cash Interest Amount means the maximum amount of Available Funds available to be paid by the Borrower to the Lender on an Interest Payment Date after setting aside the amount of Cash needed in order to satisfy the Minimum Liquidity Headroom Requirement on such Interest Payment Date, and provided always that such amount shall not exceed an amount equal to the Cash Interest payable on such Interest Payment Date;

Available Funds means all amounts generated by the Obligors from ongoing operations during the Interest Period ending immediately prior to the Interest Payment Date in respect of which the calculation of Available Funds is being made and which is available to the Obligors on a cleared funds basis in Cash and Cash Equivalent Investments (excluding, for the avoidance of doubt, any cash lent to the Borrower Group under the Pari Passu Loan during the relevant Interest Period which at the time of such calculation remains unspent and any cash injected into the Borrower Group by way of equity or Financial Indebtedness during such Interest Period) and after deducting the following amounts paid out by the Obligors during such Interest Period:

- (a) all operating and capital expenditure;
- (b) any Debt Service Charges
- (c) any:
 - (i) interest or equivalent finance charge in respect of Financial Indebtedness paid or forecast to be paid by any member of the Borrower Group;
 - (ii) scheduled amortisation of principal paid in respect of any Financial Indebtedness by any member of the Borrower Group; and
 - (iii) recurring fees, commission, costs, discounts, premiums, charges or any other finance payments paid in cash in respect of any Financial Indebtedness by any member of the Borrower Group not comprised within Debt Service Charges for which any member of the Borrower Group is liable; and
- (d) cash taxes and payments for any surrenders of tax losses or reliefs,

in each case, to the extent not funded by any cash injected into the Borrower Group by way of equity or Financial Indebtedness;

Band 1 Adjusted EBITDA UTE has the meaning given to such term in Clause 22.1 (*Underperformance Trigger Events*);

Band 2 Adjusted EBITDA UTE has the meaning given to such term in Clause 22.1 (*Underperformance Trigger Events*);

Band 1 PAX UTE has the meaning given to such term in Clause 22.1 (*Underperformance Trigger Events*);

Band 2 PAX UTE has the meaning given to such term in Clause 22.1 (*Underperformance Trigger Events*);

Blacklist has the meaning given to the term “Blacklisted Entity” in the Shareholders’ Agreement;

Board means the board of the directors of the Borrower;

Board Matter has the meaning given to such term in the Shareholders’ Agreement;

Borrower Conversion Notice has the meaning given to such term in Clause 11.2(a) (*Conversion at the option of the Borrower*);

Borrower Group means the Borrower and its Subsidiaries;

Business Day means a day (other than a Saturday or Sunday or public holiday in England and Wales, Luxembourg or Washington DC, USA) on which banks are open for general commercial business in London, Luxembourg and Washington DC;

Business Plan means:

- (a) the Initial Business Plan; and

- (b) each subsequent business plan (the Subsequent Business Plan) prepared by the Operational Committee of the Borrower in respect of a rolling seven-year period as approved by the Board and (for so long as Esken remains a listed entity) the board of Esken;

Cash means at any time, cash in hand or on deposit with any bank in an account in the name of any Obligor and which is available to the Obligors on a cleared funds basis;

Cash Equivalent Investments means at any time:

- (a) certificates of deposit maturing within six months after the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the United States of America, the United Kingdom or by an instrumentality or agency of any of them having an equivalent credit rating maturing within six months after the relevant date of calculation and not convertible or exchangeable to any other security;
- (c) any investment in money market funds which (i) have 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 Investor Services Limited, and (ii) which invest substantially all their assets in securities of the types described in sub-clauses (a) and (b) above; and (iii) can be turned into cash on not more than 30 days' notice; or
- (d) any other debt security approved by the Lender,

in each case, denominated in sterling and to which any member of the Borrower Group is alone (or together with other members of the Borrower Group) beneficially entitled at that time and which is not issued or guaranteed by any member of the Borrower Group or subject to any Security (other than any Security arising under the Transaction Security Documents);

Cash Interest has the meaning given to such term in Clause 9.1 (*Calculation of Interest*);

Cashflow Period has the meaning given to such term in Part A of Schedule 2 (*Conditions precedent*);

CGI means Carlyle Global Infrastructure Opportunity Fund, L.P;

Change of Control Event has the meaning given to such term in Clause 8.3(f) (*Repayment at the option of the Lender following a Change of Control*);

Change of Control Notice has the meaning given to such term in Clause 8.3(a) (*Repayment at the option of the Lender following a Change of Control*);

Closing Date means the date on which the Loan is drawn-down by the Borrower following satisfaction of the conditions set out in Clause 6 (*Closing Date*);

CoC Notice Period has the meaning given to such term in Clause 8.3(c) (*Repayment at the option of the Lender following a Change of Control*);

CoC Offer Period has the meaning given in Clause 24.1 (*Right of First Offer*);

CoC Transaction has the meaning given in Clause 24.1 (*Right of First Offer*);;

Code means the US Internal Revenue Code of 1986;

Commitment Fee has the meaning given to it in the Implementation Agreement;

Confidential Information means all information relating to the Borrower, any Obligor, the Borrower Group, the Finance Documents or the Facility of which the Lender becomes aware in its capacity as, or for the purpose of becoming, the Lender or which is received by the Lender in relation to, or for the purpose of becoming the Lender under, the Finance Documents or the Facility from either:

- (a) any member of the Group or any of its advisers; or
- (b) another Party, if the information was obtained by that Party directly or indirectly from any member of the Group or any of its advisers,

in whatever form, and includes any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes:

- (i) information that:
 - (A) is or becomes public information other than as a direct or indirect result of any breach by the Lender of Clause 36 (*Confidential Information*); or
 - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
 - (C) is known by the Lender, any Lender Affiliate or any of its or their Representatives before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by the Lender, Lender Affiliate or any of its or their Representatives after that date, from a source which is, as far as the Lender, Lender Affiliate or relevant Representative is aware, unconnected with the Group and which, in either case, as far as the Lender, Lender Affiliate or relevant Representatives is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality; or
 - (D) is independently acquired or developed by the Lender, Lender Affiliate or any of its or their Representatives other than as a direct or indirect result of any breach by the Lender of Clause 36 (*Confidential Information*);

Confidentiality Undertaking means a confidentiality undertaking substantially in a recommended form of the LMA or in any other form agreed between the Borrower and the Lender;

Control has the meaning given to it in Clause 8.3;

Conversion has the meaning given to such term in Clause 11.1(a) (*Conversion at the option of the Lender*);

Conversion Capitalisation and Release Right has the meaning given to such term in Clause 11.1(c) (*Conversion at the option of the Lender*);

Conversion Date has the meaning given to such term in Clause 11.1(a) (*Conversion at the option of the Lender*);

Conversion Right has the meaning given to such term in Clause 11.1(a) (*Conversion at the option of the Lender*);

Conversion Shares means ordinary shares in the Borrower in an amount equal to: (i) absent any ORR Approval, 29.9999 per cent. and (ii) following ORR Approval, 30 per cent., in each case, of the fully diluted share capital of the Borrower (taking into account any equitization or capitalisation of indebtedness upon Conversion which results in shares in the Borrower being issued, any outstanding options or warrants over its share capital and any incentives plans which relate to shares of the Borrower or any member of the Borrower Group, in each case, at the time of its conversion), at the time of Conversion.

Cured means, in relation to any Underperformance Trigger Event, that on any subsequent Underperformance Test Date, such Underperformance Trigger Event is no longer subsisting;

Cure Periods means the cure periods set out in the table set out in Part C of Schedule 4 (Underperformance Trigger Events);

Data Room means the data room made available by the Borrower Group to the Lender and its advisors through Datasite in connection with the transactions contemplated by the Finance Documents;

Debt Documents shall have the meaning given to such term in the Intercreditor Agreement;

Debt Incurrence Tests means the Net Leverage Test and the DSCR Test;

Debt Service Charges means, in respect of any relevant period, the amount equal to:

- (a) the aggregate of (i) interest paid or forecast to be paid in cash on the relevant payment date and scheduled amortisation of principal payable by any member of the Borrower Group in respect of any Relevant PFI incurred by any member of the Borrower Group; and (ii) any recurring fees, commission, costs, discounts, premiums, charges or any other finance payments payable in cash by any member of the Borrower Group in respect of any Relevant PFI incurred by any member of the Borrower Group; less
- (b) any interest received on any bank accounts or in respect of Cash Equivalent Investments by any member of the Borrower Group during such relevant period;

Default means an Event of Default or any event or circumstance specified in Clause 25 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice,

the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default;

Discharged Rights and Obligations has the meaning given in Clause 26.2(b) (*Procedure for Transfer*);

Dispute has the meaning given to such term in Clause 39.1 (*Jurisdiction*);

Disruption Event means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
 - (i) from performing its payment obligations under the Finance Documents; or
 - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

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

DSCR Test applies with effect from the Financial Year commencing 1 March 2026, and will be satisfied if the ratio of Free Cashflow (calculated as at the most recent month end) to Debt Service Charges (as at the most recent month end and pro forma'd so as to include the expected Debt Service Charges of the Relevant PFI, to be incurred at the time when the DSCR Test is to be calculated) is equal to or greater than 2.00:1.00 in respect of each Relevant Period, where Relevant Period means (i) (with effect the Financial Year commencing 1 March 2027 only) the 12-month period ending on the most recent month end and (ii) the 12-month period following such month end;

EBITDA means, for any relevant period, the consolidated operating profits of the Borrower Group arising from ordinary activities for that period before taxation excluding results from discontinued operations:

- (a) before deducting Debt Service Charges and any interest or equivalent finance charge in respect of Financial Indebtedness not comprised within Debt Service Charges for which any member of the Borrower Group is liable and including any implied interest on balance sheet provisions in the Borrower's consolidated financial statements;
- (b) before taking into account any accrued interest owing to any member of the Borrower Group;
- (c) before taking into account any items (positive or negative) of a non-recurring, or exceptional nature or which occur outside the ordinary course of business

(including without limitation the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring, disposals, revaluations or impairment of non-current assets, disposals of assets associated with discontinued operations and the costs associated with any aborted Permitted Acquisitions or aborted equity or debt securities offering or the mandatory repayment of any payments in respect of government furlough schemes or other government support funding provided in response to the COVID-19 pandemic or any compensation payments to departing management, any fees of a non-recurring nature incurred in connection with investments or Financial Indebtedness, or in respect of any litigation (whether or not successful)), provided that any such items which have been compensated for by insurance proceeds referred to in paragraph (l) shall be included as a deduction from EBITDA but only to the extent of any insurance proceeds actually received;

- (d) before deducting any amount attributable to the amortisation of goodwill or intangible assets or acquisition costs or the depreciation of tangible assets;
- (e) before adding or deducting any amount attributable to any movement in the fair value of financial instruments held by any member of the Borrower Group (except to the extent provided for in paragraph (j) below);
- (f) before taking into account the agreed transaction costs associated with the financing contemplated by the Finance Documents;
- (g) before adding amounts attributable to cash grants or subsidies received or the non-cash amortisation of such grants or subsidies and before deducting any amounts in respect of repayments of any such cash grants or subsidies, where, for these purposes, grants and subsidies shall not include any payments received or made in respect of government furlough schemes and other government support funding provided in response to the COVID-19 pandemic;
- (h) after deducting (to the extent otherwise included) any gain over book value arising in favour of a member of the Borrower Group in the disposal of any asset (not being any disposal made in the ordinary course of trading) during such period and any gain arising on any revaluation of any asset during such period;
- (i) after adding back (to the extent otherwise deducted) any loss against book value incurred by a member of the Borrower Group on the disposal or write down of any asset (not being any disposals made in the ordinary course of trading) during such period and any loss arising on any revaluation of any asset during such period;
- (j) after adding (to the extent not otherwise included) the realised gains or deducting (to the extent not otherwise deducted) the realised losses arising at maturity or on termination of forward foreign exchange and currency hedging contracts, in each case, entered into in the ordinary course of business with respect to the operational cash flows (both revenue and costs) of the Borrower Group (but taking no account of any unrealised gains or loss on any hedging or other derivative instrument whatsoever);

- (k) after adding back (to the extent otherwise deducted) any non-cash IFRS 2 charges relating to any share option or management incentive schemes in respect of the Borrower Group after deducting any actual cash payments relating to share option or management incentive schemes (to the extent such cash payment has not already been deducted from EBITDA in the current or previous periods);
- (l) after adding (to the extent not otherwise included) any insurance proceeds received in cash by any member of the Borrower Group in respect of business interruption loss (to be applied to cover operating losses in respect of which the relevant insurance claim was made) or third party liability (to the extent such amounts are not subsequently paid to a third party);
- (m) after deducting any profit and adding back any loss attributable solely to exchange rate movements on translation of balance sheet assets and liabilities in the Borrower's consolidated financial statements;
- (n) for the avoidance of doubt, before deducting the amount of any capital expenditure (to the extent deducted in calculating consolidated operating profits);
- (o) after deducting any marketing incentives,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining operating profits of the Borrower Group from its ordinary activities and so that no amount shall be added (or deducted) more than once;

Economic Sanctions Law and Trade Laws and Regulations means any economic or financial sanctions administered by the US Treasury Department's Office of Foreign Assets Control (OFAC), the US State Department, the United Nations, the United Kingdom, the European Union or any member state thereof, or any other national economic sanctions authority, which are, in each case, applicable to any of the Borrower or any other member of the Borrower Group;

Emergency Funding has the meaning given to such term in Clause 12.2 (*Emergency Funding*);

Emergency Funding Notice has the meaning given to such term in Clause 12.1 (*Emergency Funding Notice*);

Emergency Funding Situation means the occurrence of any of the following:

- (a) an event of default has occurred under any of the Borrower's finance agreements, or any other agreement in respect of any other indebtedness of the Borrower Group (excluding any subordinated Financial Indebtedness), the acceleration of which would be reasonably likely to have a material adverse effect on the Borrower Group, which (i) is continuing and has not been unconditionally waived by the relevant finance parties or remedied; and (ii) is not merely a technical default (a Finance Event of Default) and, in the reasonable opinion of the Board, acting in good faith and in the best interests of the Borrower, further financing is required so as to cure such Finance Event of Default;

- (b) in the reasonable opinion of the Board, acting in good faith and in the best interests of the Borrower, further financing is required to avoid, mitigate or remedy an Emergency Situation; and
- (c) in the reasonable opinion of the Board, acting in good faith and in the best interests of the Borrower, any member of the Borrower Group has an urgent liquidity requirement where failure to meet such liquidity requirement is reasonably likely to result in an event under paragraph (a) above;

Emergency Situation means any unexpected situation which would, unless remedied immediately, have a material adverse effect on the operation of the Borrower Group's business including, but not limited to: (i) an act of God, flood, earthquake, windstorm or other natural disaster; (ii) extreme adverse weather conditions; (iii) the interruption or failure of a utility service, including but not limited to electric power, gas or water; (iv) fire, explosion or accidental damage; (v) a terrorist attack, civil commotion or riots; (vi) any labour dispute, including but not limited to strikes, industrial action or lockouts; (vii) a collapse of building structures, failure of plant machinery, machinery, computers, aircraft or vehicles; (viii) an environmental catastrophe; or (ix) any epidemic or pandemic;

Enforcement Action has the meaning given to such term in the Intercreditor Agreement.

Environment means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including, without limitation, land under water);

Environmental Law means any applicable law or regulation which relates to:

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace; or
- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste;

Environmental Permits means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by any member of the Group;

Equity Raise has the meaning given to such term in Part A of Schedule 2 (*Conditions precedent*);

Esken means Esken Limited and shall include any listed holding company established via a corporate reorganisation pursued by the board of Esken Limited to hold the shares of Esken Limited;

Esken Funded Amounts means any amounts provided to the Borrower Group by the Wider Group (by way of loan) to fund any Permitted Operating Expenditure or Permitted Capital Expenditure of the Obligors (but excluding, for the avoidance of doubt, any Emergency Funding);

Esken Shareholder means Stobart Aviation Limited;

Esken Shareholder Provisions has the meaning given to such term in Clause 2(a) (*Esken Shareholder Provisions*);

Event of Default means any event or circumstance specified as such in Clause 25 (*Events of Default*);

Existing Facility means the £120,000,000 revolving credit facility originally dated 26 January 2015 (as amended from time to time) and entered into between, amongst others, Esken as borrower, each Obligor as a guarantor and Lloyds Bank plc and AIB Group (UK) plc as lenders.

Existing Relevant Contract means:

- (a) the Airport Services Agreement dated 21 August 2019 with Wizz Air;
- (b) the Airport Services Agreement dated 12 June 2018 with Ryanair;
- (c) the Hotel Services Franchise Agreement dated 4 July 2011 with ING Hotels Limited;
- (d) the agreement relating to the operation of retail premises dated August 2016 (unspecified date) with WDFG UK Limited;
- (e) the Station Access Agreement dated 28 May 2020 with Abellio East Anglia Limited; and
- (f) the Additional Passenger Rail Services Agreement dated 28 May 2020 with Abellio East Anglia Limited;

Facility means the term loan facility made available under this Agreement as described in Clause 4 (*The Facility*);

Facility Office means the office or offices notified by the Lender to the Borrower in writing on or before the date of this Agreement (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement;

FATCA means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which

(in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or

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

FATCA Application Date means:

- (a) in relation to a **withholdable payment** described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014
- (b) in relation to a **withholdable payment** described in section 1473(1)(A)(ii) of the Code (which relates to **gross proceeds** from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (c) in relation to a **passthru payment** described in section 1471(d)(7) of the Code not falling within paragraphs (a) or (b) above, 1 January 2019,

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

FATCA Deduction means a deduction or withholding from a payment under a Finance Document required by FATCA;

FATCA Exempt Party means a Party that is entitled to receive payments free from any FATCA Deduction;

Fee Letter means the fee letter setting out the fees payable to the Security Agent in accordance with Clause 13 (*Security Agent Fees*);

Final Maturity Date means the date falling seven years from the Closing Date;

Finance Documents means this Agreement, the Shareholders' Agreement, the Restrictive Covenant Side Letter, the Indemnity Deed, the Intercreditor Agreement, the Transaction Security Document, any Accession Letter, any Resignation Letter and any other document designated as such by the Lender and the Borrower;

Financial Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability;

- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) 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 marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above;

Financial Year means the annual accounting period of the Group ending on 28 February (or 29 February, if applicable) in each year (or such other date as notified by the Borrower to the Lender but provided always that: (i) the Borrower shall consult with the Lender prior to any such change to the Financial Year; and (ii) the Borrower takes into account all comments from the Lender arising from such consultation when making any consequential amendments to the provisions of this Agreement (and provided that such amendments are limited to those which are strictly necessary) to ensure that the effect of changing the end date of the Financial Year is taken into account in the relevant calculations/provisions which relate to Financial Year, and provided that the Borrower does so take into account all such comments, the Lender shall be deemed to have consented to the making of such consequential amendments;

First Currency has the meaning given to such term in Clause 15.1(a) (*Currency Indemnity*);

Forecast Period means the rolling three-year period covered by the cashflow forecasts included in the then current Business Plan;

Free Cashflow means in relation to any period, the amount (subject to a minimum of zero) equal to the difference between:

- (a) the aggregate of EBITDA for such period; and
- (b) (unless already taken into account in calculating EBITDA) the aggregate of:
 - (i) any cash tax actually paid (plus any payments for any surrenders of tax losses or reliefs) or irrecoverable VAT suffered by the Borrower Group during such period less the amount of any rebate, refund or credit in respect of any tax on profits, gains or income actually received in cash by any member of the Borrower Group during such period;
 - (ii) any increase in Working Capital for the relevant period (provided that, in the event that there has been a decrease in Working Capital, such

decreased amount shall be deducted from the aggregate amount calculated under this paragraph (b));

- (iii) an amount equal to all capital expenditure required to be spent or reserved in relation to that period but excluding any such capital expenditure funded through the Permitted Financial Indebtedness);
- (iv) to the extent not included in EBITDA, any real estate related lease payments made by members of the Borrower Group in respect of real estate not occupied by members of the Borrower Group in that period;
- (v) to the extent not included in EBITDA, any real estate related lease payments made by members of the Borrower Group in respect of real estate which is occupied by members of the Borrower Group in that period; and
- (vi) the difference between (A) the amount of any increase in provisions, other non-cash debits and other non-cash charges (which are not current assets or current liabilities) and (B) the amount of any non-cash credits (which are not current assets or current liabilities) in each case to the extent taken into account in establishing EBITDA for such period,

and so that no amount shall be added (or deducted) more than once;

Full Title Guarantee means with the benefit of the implied covenants set out in Part 2 of the Law of Property (Miscellaneous Provisions) Act 1994 when a disposition is expressed to be made with full title guarantee;

Funding Offer Request has the meaning given to such term in Clause 12.2(c) (*Emergency Funding*);

GAAP means generally accepted accounting principles in England and Wales;

Governmental Authority means (i) any national, federal, state, county, municipal, local, or foreign government or any entity exercising executive, legislative, judicial, regulatory, taxing, or administrative functions of or pertaining to government; (ii) any public international organization; (iii) any agency, division, bureau, department, or other political subdivision of any government, entity or organization described in the foregoing paragraphs (i) or (ii) of this definition; (iv) any company, business, enterprise, or other entity owned, in whole or in part, or controlled by any government, entity, organization, or other person described in the foregoing paragraphs (i), (ii) or (iii) of this definition; or (v) any political party;

Government Official means (i) any official, officer, employee, or representative of, or any person acting in an official capacity for or on behalf of, any Governmental Authority; (ii) any political party or party official or candidate for political office; (iii) a Politically Exposed Person (PEP) as defined by the Financial Action Task Force (FATF), Groupe d'action Financière sur le Blanchiment de Capitaux (GAFI), or AML 5; or (iv) any official, officer, employee, or representative of a company, business, enterprise or other entity owned, in whole or in part, or controlled by any Governmental Authority;

Group means the Wider Group and the Borrower Group;

Guarantor means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 27 (*Changes to the Obligors*);

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

Hotel means Holiday Inn Southend Hotel, 77 Eastwoodbury Cres, Southend-on-Sea, SS2 6XG;

Implementation Agreement means the implementation agreement entered into on or about the date hereof and entered into between, among others, Esken Limited and the Lender.

Initial Business Plan means the initial seven-year business plan as agreed between the Esken Shareholder and the Lender and as adopted by the Borrower on or prior to the Closing Date and delivered to the Lender pursuant to Clause 7(a)(i) (*Conditions to drawdown*);

Initial Period means the period commencing on the Closing Date to (and including) the final day of Financial Year 2025;

Insolvency Event means, in relation to any person:

- (a) the appointment of a liquidator, provisional liquidator, trustee in bankruptcy, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the company (in each case whether out of court or otherwise); and/or
- (b) any event analogous to the events in (a) in any country or territory in which the company is incorporated or carries on business or to the jurisdiction of whose courts it is subject;

Intellectual Property means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each Obligor (which may now or in the future subsist);

Intercreditor Agreement means the intercreditor agreement entered into between, amongst others, each Obligor, the Lender, Stobart Aviation Limited, and the Security Agent and dated on or before the Closing Date;

Intercreditor Agreement Debtor Accession Deed means a deed substantially in the form set out in schedule 1 (*Form of Debtor Accession Deed*) to the Intercreditor Agreement.

Interest Payment Date has the meaning given to such term in Clause 10.1 (*Interest Payment Date*);

Interest Period has the meaning given to such term in Clause 10.2 (*Calculation of Interest Periods*);

Intermediate Holding Company means any person who is both (i) a Subsidiary of Esken Limited and (ii) a Holding Company of the Esken Shareholder.

Investor Matter has the meaning given to such term in the Shareholders' Agreement;

ITA means the Income Tax Act 2007;

Legal Reservations means any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered pursuant to Schedule 2 (*Conditions Precedent*);

Lender Affiliate means an Affiliate (as defined in the Shareholders' Agreement) of the Lender:

- (a) which is, or is majority-owned by, a fund or funds which is managed and advised by Carlyle Investment Management L.L.C. (or its Affiliates (as defined in the Shareholders' Agreement)) (each a **CGI PAT Fund**); and
- (b) whose ultimate parent (The Carlyle Group, Inc.) Controls the Lender Affiliate and (if the Lender Affiliate is not a CGI PAT Fund) the CGI PAT Fund; and
- (c) where no person, together with any of its Affiliates, (excluding any Affiliates of the Lender) holds an economic interest (on a look through basis, whether held directly or indirectly) of more than 49 per cent. of the Lender;

LMA means the Loan Market Association;

Loan has the meaning given to such term in Clause 4 (*The Facility*);

London LCC Airport Peers means London City Airport, Luton Airport, Gatwick Airport and Stansted Airport;

London Southend Airport Land Claims means the claims brought under Part 1 of the Land Compensation Act 1973 by approximately 190 landowners in proximity to London Southend Airport in relation to the extension of the London Southend Airport runway in 2012, for which test cases were heard by the Upper Tribunal (Land Chamber) in October 2020 and for which the claimants are appealing the decision of the Upper Tribunal which awarded an aggregate amount of approximately £1.2m to the claimants, plus certain costs to be assessed.

Longstop Date means 30 September 2021;

LSA Brand means any and all rights to use the name London Southend Airport including Community Trademark number 9211541 and the trademark number 2603047 registered in the United Kingdom in the classes in which such trademarks are registered;

LSA Brand Licence means the licence granted by Stobart Group Brands LLC to the Borrower in respect of the LSA Brand in the form agreed by the Lender;

LTM means a period of 12 months on a look-back basis prior to the relevant Underperformance Test Date;

LTM PAX means PAX on an LTM basis;

Mandatory Consent means any approval or the termination of any applicable waiting period pursuant to the legislation or regulations in any country or of any Governmental Authority (including for the avoidance of doubt, the National Security and Investment Act 2021) without which a Transfer or issue of shares in the Borrower or other shareholder instruments with respect to the share capital of the Borrower would be unlawful or otherwise prohibited or restricted;

Market Driven Pax Trigger Event shall occur if London Southend Airport's LTM PAX as a percentage of PAX in Financial Year 2020 (but adjusted to deduct PAX attributed to any Flybe and Logan Air flight services and, until the end Financial Year 2025, attributed to any easyJet flight services in Financial Year 2020) is not more than 25 percentage points below average LTM PAX at London LCC Airport Peers as a percentage of average PAX at these airports in the same time period as London Southend Airport's Financial Year 2020;

Material Adverse Effect means an event or circumstance which has a material adverse effect on:

- (a) the business, prospects, operations, assets or financial condition of the Borrower Group taken as a whole; or
- (b) the ability of the Borrower to perform its payment obligations under the Finance Documents; or
- (c) subject to the Legal Reservations, the validity, legality or enforceability of any Finance Document;

Material Asset means: (i) London Southend Airport; (ii) the Hotel; (iii) the Train Station; and/or (iv) any related infrastructure or other asset required for the operation of the London Southend Airport which has a market value in excess of £1 million (such amount, as adjusted by reference to the Consumer Price Index each Financial Year, with the Borrower to deliver to the Lender its calculation in respect thereof) and which is not otherwise being replaced;

Material Contracts means any contract, liability or commitment (each being a **Material Contract**) which: (i) is capable of continuing for more than five years or could involve a liability for expenditure in excess of £5 million per annum (such amount, as adjusted by reference to the Consumer Price Index each Financial Year, with the Borrower to deliver to the Lender its calculation in respect thereof); and (ii) is outside the ordinary course of business of the Borrower Group, unless a contract involves costs within the Annual Budget and Business Plan and satisfies such authorisation criteria as the Borrower and Lender may approve from time to time as part of the procedures for the Borrower but provided always that any contract with any airline shall not be deemed to be a Material Contract;

Material Person means each of Esken Limited, Esken Shareholder and any Intermediate Holding Company.

Minimum Liquidity Headroom Requirement shall have the meaning given to it in Clause 9.3(d) (*Cash Interest*);

Month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (b)) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month,

and the above rules will only apply to the last Month of any period;

Net Leverage Test applies with effect from the Financial Year commencing 1 March 2025, and will be satisfied if the ratio of Total Relevant PFI (as at the most recent month end and pro forma'd so as to include the principal amount of the Relevant PFI) to EBITDA in respect of the 12-month period ending at the end of the most recent month end prior to the calculation of the Net Leverage Test is equal to or less than 4.00:1.00;

Non-Cured Underperformance Trigger Event means an Underperformance Trigger Event which has not been Cured on or prior to the expiry of the relevant Cure Period;

Non-ICA Financial Indebtedness has the meaning given to such term in the Intercreditor Agreement.

Obligor means the Borrower, a Guarantor or any other member of the Borrower Group;

Offer Terms has the meaning given to such term in Clause 12.3 (*Emergency Funding Terms*);

Operational Committee means a committee established by the Borrower responsible for day to day decision making of the Borrower Group with authority delegated from the board of the Borrower;

Optional Repayment Notice has the meaning given to such term in Clause 8.2(a) (*Repayment at the option of the Borrower*);

Original Financial Statements means in relation to each Original Obligor, the audited financial statements of such Original Obligor for the financial year ended 2020;

Original Jurisdiction means, in relation to the Borrower or an Obligor, the jurisdiction under whose laws the Borrower or that Obligor is incorporated as at the date of this Agreement or, in the case of an Additional Obligor, as at the date on which that Additional Obligor becomes Party as the Borrower or a Guarantor (as the case may be);

Original Obligor means a Borrower or an Original Guarantor;

ORR Approval has the meaning given to the term in Clause 21.35 (*ORR*);

Pari Passu Loan means the facility agreement entered into between London Southend Airport Company Limited as borrower and Stobart Aviation Limited as lender (the **Pari Passu Lender**) entered into on or before the Closing Date, in the form approved by the Lender;

Party means a party to this Agreement;

PAX means the total terminal and transit passenger numbers as published from time to time by the CAA;

PAX UTE means a Band 1 PAX UTE or a Band 2 PAX UTE;

Perfection Requirements means:

- (a) the delivery of all certificates of title to securities which are the subject of Transaction Security to the Security Agent, together with signed but otherwise undated transfer forms, confirmations and notices and acknowledgements duly executed in the form required pursuant to each Transaction Security Document; and
- (b) the making or the procuring of registrations, filings (including in any shareholder register or other person's books), endorsements, notarisations, translations, stampings, notifications, acknowledgements and/or acceptances of the Transaction Documents (and/or the Security created thereunder) necessary for the validity, enforceability (as against the relevant Obligor as well as any third party) and/or perfection thereof.

Permitted Acquisition means:

- (a) an acquisition by any Obligor of an asset sold, leased, transferred or otherwise disposed of by another Obligor in circumstances constituting a Permitted Disposal;
- (b) an acquisition of shares or securities where such shares or securities are issued by another member of the Borrower Group; or
- (c) an acquisition of securities which are Cash Equivalent Investments provided that those Cash Equivalent Investments immediately become subject to a floating charge under the Transaction Security;

Permitted Business means:

- (a) the businesses operated by the Obligors as at the Closing Date; and
- (b) the business of owning, operating and developing London Southend Airport (including, without limitation, provision of facilities for and connected with aeronautical activities including retail, hotel accommodation, car parks, jet centres, advertising and surface transport and the development thereof);

Permitted Capital Expenditure means:

- (a) for the Initial Period:
 - (i) subject to (ii) below, any capital expenditure (whether voluntary, mandatory or growth) as contemplated by the Initial Business Plan (and, for Financial Years 2023, 2024 and 2025, the then current Business Plan and Annual Budget) provided that the aggregate of all such capital expenditure, when aggregated with all Permitted Operating Expenditure in the Initial Period, may not exceed £20 million in aggregate (the **Initial Period Cap**) and shall be funded from

the proceeds of the Pari Passu Loan and/or any Asset-Financing Arrangements as contemplated by the Initial Business Plan and/or any cashflows which are reflected in the underlying cashflows in the Initial Business Plan;

- (ii) to the extent that the Esken Shareholder or the Board wishes to incur additional capital expenditure in excess of the Initial Period Cap, any additional capital expenditure (the *Additional Capital Expenditure*) shall be funded either through Esken Funded Amounts, or to the extent an Emergency Funding Situation has arisen, through Emergency Funding;
- (b) thereafter:
- (i) subject to (ii) below, any capital expenditure (whether voluntary, mandatory or growth) as contemplated by the then current Business Plan for such year and shall be funded out of the cashflows of the Borrower Group or Permitted Financial Indebtedness in respect of Permitted Capital Expenditure incurred in compliance with the Debt Incurrence Tests (excluding, for the avoidance of doubt, any indebtedness provided by the Wider Group);
 - (ii) pre-Conversion, to the extent that capital expenditure, as set out in the then current Business Plan and Budget cannot be met out of cashflows of the Borrower Group or from Permitted Financial Indebtedness in respect of Permitted Capital Expenditure incurred in compliance with the Debt Incurrence Tests, any shortfalls may be funded through the Esken Funded Amounts; or
- (c) any other capital expenditure as agreed between the Borrower and the Lender at any time;

Permitted Disposal means any sale, lease, transfer or other disposal (other than any sale, lease, transfer or other disposal of a Material Asset):

- (a) made in the ordinary course of business of the disposing entity and on an arm's length basis (including, for the avoidance of doubt, (X) payments of cash to the Wider Group in respect of: (i) the Borrower Group's share of costs incurred by the Wider Group on behalf of the Borrower Group; and (ii) payments for tax losses or reliefs surrendered by the Wider Group (for offset against current year taxable income or profits of the Borrower Group) at a price no greater than an arm's length price, and (Y) disposals of tax losses to other members of the Wider Group for value at a price no lower than an arm's length price));
- (b) of assets in exchange for or to be replaced by other assets comparable or superior as to type, value and quality;
- (c) of obsolete or redundant vehicles, plant and equipment for cash;
- (d) made at arm's length and on normal commercial terms;
- (e) the payment of cash for any purpose not prohibited by any Transaction Document;

- (f) made by an Obligor to another Obligor;
- (g) the short-term investment of funds not immediately required in the Obligor's business into Cash Equivalent Investments and the realisation of those investments;
- (h) of any asset which is the subject of any Asset-Financing Arrangement (and is subject of Permitted Security) in favour of a person other than the Lender and which ranks ahead of the Transaction Security granted over that asset in favour of the Lender, provided that at the time of any such disposal, no Event of Default or potential Event of Default has occurred and is continuing or would occur as a result of the disposal;
- (i) of assets in the making of a lawful distribution or other Restricted Payment provided that the Permitted Distribution Conditions are met;
- (j) of unused capital allowances which have accrued prior to the Closing Date by transfer from any member of the Borrower Group to the Wider Group;
- (k) in connection with any compulsory acquisition by any Governmental Authority or pursuant to an order or direction from a Governmental Authority or a competent regulatory body; or
- (l) where the higher of the market value or consideration receivable (when aggregated with the higher of the market value or consideration receivable for any other sale, lease, transfer or other disposal, other than any permitted under paragraphs (a) to (i) above) does not exceed £500,000 (or its equivalent in another currency or currencies) in any financial year;

Permitted Distribution Conditions means:

- (a) no actual or potential Event of Default has occurred or would arise as a result of the relevant Restricted Payment;
- (b) no Underperformance Trigger Event has occurred or would arise as a result of the relevant Restricted Payment;
- (c) as at the most recent Interest Payment Date in respect of the Loan, the Available Cash Interest Amount was equal to the Cash Interest;
- (d) as at the most recent interest payment date in respect of the Pari Passu Loan, any accrued interest in respect of such interest period was paid in full on such date; and
- (e) following any such relevant Restricted Payment, the Minimum Liquidity Headroom Requirement will continue to be satisfied.

Permitted Financial Indebtedness means any Financial Indebtedness:

- (a) under the Pari Passu Loan and any Alternative Financing;
- (b) arising under the Asset-Financing Arrangements *provided that*, to the extent applicable at the time of such incurrence, with respect to the incurrence of Asset-Financing Arrangements which are not rollovers of existing Asset-

Financing Arrangements, the Debt Incurrence Tests are satisfied taking into account the incurrence of such Financial Indebtedness;

- (c) arising under any Finance Documents;
- (d) under any derivative transaction protecting the Borrower Group against or benefiting from fluctuations in any rate or price entered into in the ordinary course of day to day business;
- (e) owed by an Obligor to another Obligor;
- (f) under any Super Senior Capex Funding *provided that*, at the time of such incurrence: (i) no Event of Default is continuing or would result from the incurrence of such Financial Indebtedness and (ii) the Debt Incurrence Tests are satisfied taking into account the incurrence of such Financial Indebtedness;
- (g) under any Emergency Funding;
- (h) under any Structural Shareholder Indebtedness provided that such Financial Indebtedness has been subordinated (as “Subordinated Liabilities”) under the terms of the Intercreditor Agreement and the relevant creditor has acceded (as a “Subordinated Creditor”) to the Intercreditor Agreement;
- (i) in respect of any Esken Funded Amounts provided that (i) such Financial Indebtedness has been subordinated (as “Subordinated Liabilities”) under the terms of the Intercreditor Agreement and the relevant creditor has acceded (as a “Subordinated Creditor”) to the Intercreditor Agreement and (ii) such indebtedness has been incurred pre-Conversion;
- (j) under any unsecured overdraft and/or ancillary facilities entered into in the ordinary course of business, *provided that* the aggregate principal amount outstanding at any time may not exceed the greater of (a) £2.5 million and (b) to the extent applicable at the time of such incurrence, the amount which can be incurred by way of Permitted Financial Indebtedness whilst remaining in compliance with the Debt Incurrence Tests;

Permitted Guarantees means

- (a) any guarantee arising under the Finance Documents;
- (b) any Permitted Wider Group Debt Guarantee;
- (c) any guarantee comprising a netting or set-off arrangement entered into by an Obligor with an Acceptable Bank in the ordinary course of its banking arrangements for the purposes of netting debit and credit balances of that Obligor or of other Obligors with that Acceptable Bank;
- (d) performance bonds guaranteeing performance by an Obligor under any contract (not being in respect of Financial Indebtedness) or other guarantees and indemnities provided by an Obligor under any contract (not being in respect of Financial Indebtedness) entered into in the ordinary course of business;

- (e) any guarantee or indemnity given by an Obligor to a landlord in respect of the obligations of an immediate assignee or transferee of a lease as a result of the assignment or transfer of such lease;
- (f) any unsecured bond, guarantee or indemnity in relation to the obligations of any Obligor to pay rent under a lease by that Obligor of real property, provided that such bonds, guarantees or indemnities are issued in the ordinary course of business;
- (g) any guarantee of Permitted Financial Indebtedness; or
- (h) any customary guarantee or bond (but in each case only in respect of the obligations of another Obligor) or indemnity (only in respect of the obligations of itself or another Obligor) granted in the ordinary course of business to a purchaser in relation to a Permitted Disposal;

Permitted Loan means any Financial Indebtedness in which an Obligor is creditor:

- (a) to another Obligor;
- (b) of any trade credit extended by any member of the Borrower Group to its customers on normal commercial terms and in the ordinary course of its Permitted Business; and
- (c) any loan by the Borrower of an amount which would otherwise be paid to its shareholders by way of dividend or distribution as a result of satisfaction of the Permitted Distribution Conditions;

Permitted Operating Expenditure means:

- (a) for the Initial Period:
 - (i) subject to (ii) and (iii) below, any operating expenditure as contemplated by the Initial Business Plan (and, for Financial Years 2023, 2024 and 2025, the then current Business Plan and Annual Budget) provided that the aggregate of all such operating expenditure, when aggregated with all Permitted Capital Expenditure in the Initial Period, may not exceed the Initial Period Cap and shall be funded from the proceeds of the Pari Passu Loan and/or any Asset-Financing Arrangements as contemplated in the Initial Business Plan and/or any cashflows which are reflected in the underlying cashflows in the Initial Business Plan;
 - (ii) operating expenditure in each financial year of the Initial Period, as a proportion of EBITDA, may be increased by 2.5 per cent each financial year (the ***OpEx Flex***) but provided that at all times the aggregate of Permitted Capital Expenditure and Permitted Operating Expenditure during the Initial Period does not exceed the Initial Period Cap; and
 - (iii) to the extent that the Esken Shareholder or the Board wishes to incur additional operating expenditure in excess of the Initial Period Cap, any additional capital expenditure (the ***Additional Operating Expenditure***) shall be funded either through Esken Funded Amounts,

or to the extent an Emergency Funding Situation has arisen, through Emergency Funding;

- (b) thereafter:
 - (i) subject to (ii) below, any operating expenditure as contemplated by the then current Business Plan for such year and shall be funded out of the cashflows of the Borrower Group or Permitted Financial Indebtedness incurred in compliance with the Debt Incurrence Tests (excluding, for the avoidance of doubt, any indebtedness provided by the Wider Group); and
 - (ii) pre-Conversion, to the extent that operating expenditure, as set out in the then current Business Plan and Budget cannot be met out of cashflows of the Borrower Group or from Permitted Financial Indebtedness incurred in compliance with the Debt Incurrence Tests, any shortfalls may be funded through the Esken Funded Amounts; or
- (c) any other operating expenditure as agreed between the Borrower and the Lender at any time;

Permitted Recharges means re-charges of management costs and other central overhead costs provided that such re-charges (other than re-charges in respect share based payment schemes) are capped at £850,000 for FY2022 as increased by 2 per cent per financial year thereafter, or as otherwise set in connection with the then current Annual Budget, but subject always to an aggregate cap of £1.7 million per annum;

Permitted Security means:

- (a) any Transaction Security entered into pursuant to the Transaction Security Documents;
- (b) any Security or Quasi-Security granted in connection with any Asset-Financing Arrangements;
- (c) any cash management, netting or set-off arrangements entered into by any Obligor in the ordinary course of its business;
- (d) any payment, or close out netting or set-off arrangement or collateral arrangement pursuant to any hedging transaction entered into by an Obligor for the purpose of:
 - (i) hedging any risk to which any member of the Borrower Group is exposed in its ordinary course of business; or
 - (ii) its interest rate or currency management operations which are carried out in the ordinary course of business and for non-speculative purposes only;
- (e) any lien arising by operation of law and in the ordinary course of business;
- (f) any Security or Quasi-Security arising under any retention of title, title transfer, hire purchase or conditional sale arrangement or arrangements having similar

effect in respect of goods supplied to an Obligor in the ordinary course of business;

- (g) any Security or Quasi-Security created or permitted to exist with the prior written consent of the Lender; or
- (h) any Security or Quasi-Security over any rental deposits in respect of real property leased or licensed by a member of the Borrower Group in respect of amounts representing not more than 12 months' rent or licence fee;

Permitted Wider Group Debt Guarantees means any guarantee granted in respect of Financial Indebtedness of any member of the Wider Group in order to support such Financial Indebtedness provided that (i) any liabilities under such guarantee are subordinated (as “Wider Group Debt Guarantee Liabilities”) pursuant to the Intercreditor Agreement, (ii) no Event of Default is continuing or would result from the granting of such guarantee and (iii) each beneficiary of any such guarantee has acceded (as a “Guarantee Creditor”) to the Intercreditor Agreement;

PIK Interest has the meaning given to such term in Clause 9.1 (*Calculation of Interest*);

Projected Cash means cash in hand or on deposit with any bank in an account in the name of any Obligor and which is forecast to be available to the Obligors on a cleared funds basis in each month of the relevant Forecast Period (but excluding, for the avoidance of doubt, that portion of £20 million of cash lent to the Borrower Group under the Pari Passu Loan which at the time of such calculation remains unspent and any cash forecast to be injected into the Borrower Group by way of equity or Financial Indebtedness and which is forecast to be unspent during such Forecast Period) after deducting the following amounts projected to be paid out by the Obligors during such Forecast Period:

- (a) all operating and capital expenditure;
- (b) any Debt Service Charges falling due in such month of the Forecast Period in respect of any Financial Indebtedness of any Obligor; and
- (c) cash taxes and payments for any surrenders of tax losses or reliefs,

in each case, to the extent not projected to be funded by any cash injected into the Borrower Group by way of equity or Financial Indebtedness;

PWC Steps Paper means the agreed form step plan prepared by PricewaterhouseCooper in connection with the Reorganisation and dated 30 June 2021;

Qualifying Lender has the meaning given to such term in Clause 14 (*Tax gross-up and indemnities*);

Quotation Day means, in relation to any period for which an interest rate is to be determined, the first day of that period;

RCF has the meaning given to such term in Part A of Schedule 2 (*Conditions precedent*);

RDCO Regulations means the Registered Dealers in Controlled Oils regulations;

Relevant Contracts means:

- (a) each Existing Relevant Contract, including any replacement contract or agreement in respect thereof; and
- (b) any material contract or agreement in relation to real estate which is required for a material element of the operation of any Material Asset; and
- (c) any other contract or agreement which is required for the operation of any Material Asset, in each case, in respect of which the annual revenue generated for the Borrower Group exceeds or is expected to exceed £5 million (such amount, as adjusted by reference to the Consumer Price Index each Financial Year, with the Borrower to deliver to the Lender its calculation in respect thereof);

Relevant Jurisdiction means, in relation to the Borrower or an Obligor:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated; and
- (c) any jurisdiction where it conducts its business;

Relevant Market means the London interbank market;

Relevant PFI means any additional Permitted Financial Indebtedness of the Obligors (i) under any Super Senior Capex Funding owed to third parties whilst they remain outstanding or (ii) which is incurred by way of an Asset Financing Arrangement or (iii) as contemplated by paragraph (j) of the definition of Permitted Financial Indebtedness;

Relevant Obligations has the meaning given in Clause 26.3(b) (*Procedure for assignment*);

Relevant Projects means:

- (a) New arrivals terminal; new passenger boarding zones; reconfiguration of the departures terminal to replace existing arrivals terminal; new runway loop; fuel farm development; carpark with a projected capital cost in today's prices of circa £45 million (the Relevant Projects 1);
- (b) Two storey departures terminal; extension towards control tower; increased arrivals capacity; carpark with a projected capital cost in today's prices of circa £30 million (the Relevant Projects 2);
- (c) To include demolition of existing buildings and rebuilding/reconfiguration airport as a whole with a projected capital cost in today's prices of circa £193 million (the **Relevant Projects 3**);

Reorganisation has the meaning given to it in Schedule 2 (*Conditions Precedent*).

Repayment Date means the date on which the Loan is repaid in full by the Borrower;

Repayment Price shall be the greater of:

- (a) the amount at the Repayment Date that achieves a 10 per cent internal rate of return for the period from the Closing Date to the Repayment Date calculated

by reference to the principal amount of the Loan on the Closing Date and taking into account, as part of the internal rate of return calculation, the amounts and timing of all Cash Interest paid in cash by the Borrower to the Lender in the period from the Closing Date to the Repayment Date; and

- (b) £193.75 million less the aggregate of all Cash Interest paid in cash by the Borrower to the Lender in the period from the Closing Date to the Repayment Date;

Repayment Request Period means the period that is within two months of receipt of the Optional Repayment Notice or Tax Repayment Notice, as the case may be;

Repeating Representations means each of the representations set out in Clauses 19.1 (*Incorporation*), 19.2 (*Binding Obligations*), 19.3 (*Non-Conflict with other obligations*), 19.5 (*Power and authority*), 19.6 (*Validity and admissibility in evidence*), paragraph (b) of 19.11 (*No default*), and paragraph (c) of 19.19 (*Financial Statements*);

Representative means any director, officer, employee, consultant, professional advisor, auditor, delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;

Reserved Matters has the meaning given to such term in the Shareholders' Agreement;

Resignation Letter means a letter substantially in the form set out in Schedule 8 (*Form of Resignation Letter*);

Restricted Payment means:

- (a) a dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its shares or share capital (or any class of it);
- (b) any repayment or distribution in respect of any dividend or share premium reserve;
- (c) any management, advisory, servicing or other fee or any other payment by an Obligor to or to the order of any other member of the Wider Group (other than any Permitted Recharges);
- (d) any payments, prepayments or repayments in respect of Subordinated Debt;
- (e) advances under Permitted Loans to members of the Wider Group; and
- (f) any payment by any Obligor in respect of Permitted Financial Indebtedness or Permitted Guarantees which are subordinated (as "Wider Group Debt Guarantee Liabilities") pursuant to the terms of the Intercreditor Agreement;

Restricted Person means any person:

- (a) who is subject to an Insolvency Event;
- (b) unless the Lender has provided any KYC information and evidence reasonably requested by the Borrower to enable the Borrower to satisfy itself (acting reasonably) with respect to all relevant reasonable 'Know Your Customer Requirements' relating to such person;

- (c) who directly or indirectly, holds an interest exceeding 10 per cent (excluding any limited partnership interests or any other interest in which such person does not exert control or influence) in the following airports: Gatwick Airport, London City airport, Luton airport and Stansted airport (the Restricted Businesses); or
- (d) who is on the Blacklist;

Restrictive Covenant Side Letter means the restrictive covenant side letter entered into on or about the Closing Date between Esken, the Esken Shareholder, the Lender and CGIOF GP LLC;

Retiring Guarantor has the meaning given to such term in Clause 18.8 (*Release of Guarantors' right of contribution*);

Reviewers has the meaning given to such term in Clause 22.3(b) (*Underperformance Trigger Events*);

Revised Plan has the meaning given to such term in Clause 22.3 (*Underperformance Trigger Events*);

ROFO Closing Date has the meaning given in Clause 24.3 (*Right of First Offer*);

ROFO Offer has the meaning given in Clause 24.2(b) (*Right of First Offer*);

ROFO Offer Notice has the meaning given in Clause 24.1 (*Right of First Offer*);

ROFO Offer Period has the meaning given in 24.2(a) (*Right of First Offer*);

ROFO Offer Price has the meaning given in Clause 24.2 (*Right of First Offer*);

Sanctioned Person means any person, organisation or vessel:

- (a) designated on one or more of the list of Specially Designated Nationals and Blocked Persons maintained by OFAC, the Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions maintained by the European Commission, the Consolidated List of Financial Sanctions Targets or list of Investment Ban Targets maintained by Her Majesty's Treasury, or any other list of targeted persons, entities, groups or bodies issued by the UN, US, EU or UK (or any other member state of the EU);
- (b) that is, or is part of, a government of a Sanctioned Territory;
- (c) owned or controlled by, or acting on behalf of, any of the foregoing;
- (d) organised, incorporated or located within or operating from a Sanctioned Territory; or
- (e) otherwise targeted under any Economic Sanctions Law and Trade Laws and Regulations;

Sanctioned Territory means any country or other territory subject to a general export, import, financial or investment embargo under Economic Sanctions Law and Trade Laws and Regulations (including, but not limited to, Iran, Syria, Cuba, Crimea and North Korea);

Second Currency has the meaning given to such term in Clause 15.1(a) (*Currency Indemnity*);

Secured Parties has the meaning set out in the Intercreditor Agreement;

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

Security Agent means GLAS Trust Corporation Limited;

Senior Employee means any person employed by any member of the Borrower Group or any member of the Wider Group and who is paid an annual salary of £70,000 or more;

Shareholders' Agreement means the shareholders agreement between the Esken Shareholder and the Lender to be dated on the Closing Date and each document referred to therein as being in "agreed form";

Strategic Committee has the meaning given to such term in Clause 23.2 (*Strategic Committee*);

Structural Shareholder Indebtedness means any financial indebtedness owing by any Obligor to any member of the Wider Group outstanding on the Closing Date, including for the avoidance of doubt, any Wider Group Working Capital Funding provided by way of intercompany loan (but excluding the financial indebtedness in respect of the Pari Passu Loan).

Subordinated Creditors has the meaning set out in the Intercreditor Agreement.

Subordinated Debt means any Structural Shareholder Indebtedness and any Esken Funded Amounts.

Subordinated Debt Capitalisation and Release Right has the meaning given to such term in Clause 25.13(a) (*Capitalisation of Subordinated Debt*);

Subsidiary means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006;

Sum has the meaning given to such term in Clause 15.1 (*Currency indemnity*);

Super Senior Capex Funding means Financial Indebtedness in respect of Permitted Capital Expenditure to be secured by the Transaction Security which shall rank as a "Super Senior Liabilities" under the Intercreditor Agreement but provided always that (i) liabilities in respect of such Financial Indebtedness shall not exceed £50,000,000 and (ii) any such creditor shall accede as a "Super Senior Capex Facility Creditor" to the Intercreditor Agreement;

Super Senior Facility has the meaning given to such term in the Intercreditor Agreement.

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

Third-Party Emergency Funding has the meaning given to such term in Clause 12.2(a) (*Emergency Funding*);

Total Relevant PFI means all Relevant PFI owed by the Obligors to third parties outstanding at the time of such calculation, net of any Cash or Cash Equivalent Investments held by the Obligors at the time of such calculation;

Train Station means the train station owned by the Borrower known as “Southend Airport”;

Transaction Document means each Finance Document, any document relating to any Emergency Funding, the Pari Passu Loan, the Implementation Agreement, any document relating to any Alternative Financing, any document relating to any Super Senior Facility, any document relating to any Subordinated Debt and the LSA Brand Licence.

Transaction Security means the security granted in favour of the Security Agent on behalf of the Secured Parties pursuant to the Transaction Security Document;

Transaction Security Document means the English-law governed deed of charge entered into by, among others, the Borrower, each other Obligor and the Security Agent on or before the Closing Date;

Transfer means, in relation to any shares in the Borrower, to:

- (a) sell, assign, transfer or otherwise dispose of it (or any interest therein) (including the grant of any option over or in respect of it);
- (b) create or permit to subsist any encumbrance over it (other than the Security granted in respect of the Existing Facility) (including, but not limited to any encumbrance by way of security or which would cause or could reasonably be expected to cause a breach of the Borrower’s finance agreements);
- (c) direct (by way of renunciation or otherwise) that another person should, or assign any right to, receive it;
- (d) enter into any agreement in respect of the votes or any other rights attached to it (other than by way of proxy for a particular shareholder meeting); or
- (e) agree, whether or not subject to any condition precedent or subsequent, to do any of the foregoing,

and **Transferred** shall be construed accordingly;

UNCITRAL Regulations means the Cross-Border Insolvency Regulations 2006, SI2006/1030.

Underperformance Test Date means 31 August and 28 February (or 29 February, if applicable) of each year commencing 31 August 2022;

Underperformance Trigger Event has the meaning given to such term in Clause 22.1 (*Underperformance Trigger Events*);

Undertaking means a body corporate or partnership or unincorporated association or trust carrying on trade or business with or without a view to profit. In relation to an

undertaking which is not a company, expressions in this Agreement appropriate to companies are to be construed as references to the corresponding persons, officers, documents or agents (as the case may be) appropriate to undertakings of that description;

Unfunded Cash Interest Amount means the amount by which the Cash Interest exceeds the Available Cash Interest Amount;

Unpaid Sum means any sum due and payable but unpaid by an Obligor under the Finance Documents;

US means the United States of America;

Utilisation means the utilisation of the Facility;

Utilisation Date means the date of Utilisation, being the date on which the Loan is to be made;

Utilisation Request means a notice substantially in the form set out in Schedule 3 (*Utilisation Request*);

VAT means:

- (a) any Tax charged in accordance with the Value Added Tax Act 1994, as may be amended or substituted from time to time;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (c) any other tax of a similar nature, whether imposed in substitution for, or levied in addition to, such tax referred to in paragraph (a) or (b) above, or imposed elsewhere;

Wider Group means Esken and its Subsidiaries (but excluding all members of the Borrower Group); and

Wider Group Working Capital Funding has the meaning given to such term in Part A of Schedule 2 (*Conditions precedent*);

Working Capital means the amount equal to the difference between the current assets and the current liabilities (excluding, (a) when determining the amount of current assets, Cash and Cash Equivalent Investments of the Borrower Group and (b), when determining the amount of current liabilities: (i) any amounts in respect of interest costs payable by the Borrower Group; and (ii) any amounts in respect of capital expenditure required to be paid or reserved during such period).

1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
 - (i) the **Lender**, any **Obligor**, any **Party** or **Esken** shall be construed so as to include its successors in title, (and to the extent applicable) permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents, and in the case of a Change of Control Event where Esken no longer continues to control the

Borrower Group, references to Esken shall be construed as references to the “topco” of the group that acquires control;

- (ii) *assets* includes present and future properties, revenues and rights of every description;
 - (iii) a *Finance Document* or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
 - (iv) a *guarantee* means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
 - (v) *indebtedness* includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (vi) a *person* includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality);
 - (vii) a *regulation* includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (viii) a provision of law is a reference to that provision as amended or re-enacted; and
 - (ix) a time of day is a reference to London time.
- (b) The determination of the extent to which a rate is “for a period equal in length” to an Interest Period shall disregard any inconsistency arising from the last day of that Interest Period being determined pursuant to the terms of this Agreement.
- (c) Clause and Schedule headings are for ease of reference only.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (e) A Default (other than an Event of Default) is *continuing* if it has not been remedied or waived and an Event of Default is *continuing* if it has not been remedied or waived.

1.3 Currency symbols and definitions

£, **GBP** and **sterling** denote the lawful currency of the United Kingdom.

1.4 Third party rights

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

1.5 Obligors' Agent

- (a) Each Obligor (other than the Borrower) by its execution of this Agreement irrevocably appoints the Borrower (acting through one or more authorised signatories) to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
 - (i) the Borrower on its behalf to supply all information concerning itself contemplated by this Agreement to the Lender and to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given (including signing any Finance Document or any amendment or waiver in relation to it, including by way of deed), made or effected by any Obligor notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
 - (ii) the Lender to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to the Borrower,
- (b) and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.
- (c) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors' Agent and any other Obligor, those of the Obligors' Agent shall prevail.

2. Esken Shareholder provisions

- (a) Notwithstanding that the Esken Shareholder is party to this Agreement, its rights, obligations and liabilities under this Agreement are with respect to Clauses 8.3(a) and 8.3(e) (*Repayment at the option of the Lender following a Change of Control*), 11.5 (*Marketing*), 12 (*Emergency Funding*), 21.32 (*Lender consultation in respect of senior executive remuneration*), 22 (*Underperformance Trigger Events*), 23.2 (*Strategic Committee*), 24 (*Right of*

First Offer) and 25.13 (*Capitalisation of Subordinated Debt*) only (the **Esken Shareholder Provisions**).

- (b) The Esken Shareholder:
 - (i) does not make any representation or warranty to the Lender, save for that the Esken Shareholder hereby represents and warrants on the Closing Date that it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, each Transaction Document to which it is a party and the transactions contemplated by those Transaction Documents;
 - (ii) does not assume any responsibility to the Lender with respect to the provisions of this Agreement save for the Esken Shareholder Provisions; and
 - (iii) does not benefit from the rights, obligations and liabilities set out in this Agreement save for those in the Esken Shareholder Provisions.
- (c) The Lender agrees and acknowledges that it shall have no recourse against the Esken Shareholder or to the assets of the Esken Shareholder (other than the Borrower) for any breach of any provision of this Agreement or any Default or Event of Default other than in respect of a breach of the Esken Shareholder Provisions.

3. Effective Date

3.1 Save for the following provisions (and related definitions and provisions referred to in such provisions) which shall come into effect immediately upon the date of this Agreement, the provisions of this Agreement shall become effective on and from the Closing Date:

- (a) Clause 6 (*Closing Date*);
- (b) Clause 7 (*Conditions to drawdown*);
- (c) Clause 13 (*Fees*);
- (d) Clause 17.1 (*Amendment costs*);
- (e) Clause 19 (*Representations*), other than where a representation and warranty is specifically expressed to be given on the Closing Date only;
- (f) Clause 20 (*Information Undertakings and access rights*);
- (g) Clause 31 (*Notices*);
- (h) Clause 36 (*Confidential Information*);
- (i) Clause 37 (*Counterparts*);
- (j) Clause 38 (*Governing Law*); and
- (k) Clause 39 (*Enforcement*).

4. The Facility

Subject to the terms of this Agreement, the Lender makes available to the Borrower a sterling term loan facility (the *Loan*) in an amount equal to £125 million.

5. Purpose

5.1 Purpose

The Borrower shall apply all amounts borrowed by it under the Facility in partial repayment of the outstanding intercompany loan advanced by Esken and settlement of the transaction fees, costs and expenses of the Lender incurred in entry into this Agreement (such fees, costs and expenses to be netted against the proceeds of the Loan).

5.2 Monitoring

The Lender is not bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

6. Closing Date

If the Closing Date has not occurred on or prior to the Longstop Date, the provisions of this Agreement and each other Finance Document shall cease to have effect and each Party shall be irrevocably and unconditionally released from all rights, obligations, liabilities (whether actual or contingent), past, present or future arising under or in connection with the Finance Documents.

7. Conditions to drawdown

- (a) The Lender will only be obliged to make the Loan available to the Borrower if on the proposed Utilisation Date:
 - (i) The Lender has received all of the documents and other evidence listed in Part A of Schedule 2 (*Conditions precedent*) in form and substance satisfactory to the Lender (acting reasonably). The Lender shall notify the Borrower immediately upon being so satisfied. For the avoidance of doubt, the conditions precedent in Part A of Schedule 2 (*Conditions precedent*) may only be waived if so agreed between the Borrower and the Lender in writing.
 - (ii) no Default is continuing or would result from the Loan being made on the proposed Utilisation Date; and
 - (iii) the Repeating Representations are true in all material respects.
- (b) Any of the Borrower's directors is authorised to deliver a Utilisation Request to the Lender, including by e-mail, not later than 11:00am (London) on the seventh Business Day before the proposed Utilisation Date. Such notice must specify that the Loan is to be drawn in full, the proposed Utilisation Date and the details of the bank account to which the Lender should pay the Loan. If the Utilisation Request is received by the Lender after 11:00am (London) on the

seventh Business Day before the proposed Utilisation Date, the Lender shall fund the Loan on the eighth Business Day following receipt of the Utilisation Date.

8. Repayment

8.1 Mandatory repayment

The Borrower shall repay the Loan in full on the Final Maturity Date at the Repayment Price, unless:

- (a) the Loan has been repaid in full at the Repayment Price prior to the Final Maturity Date; or
- (b) the Loan is converted into Conversion Shares in accordance with Clause 11 (*Conversion*).

8.2 Repayment at the option of the Borrower

- (a) The Borrower may at any time after the second anniversary of the Closing Date elect to repay the Loan in full (and not only in part) by serving written notice on the Lender (the ***Optional Repayment Notice***) specifying the long-stop date by which the Borrower intends repay the Loan (such date to be not less than two months nor more than 6 months following the date of receipt by the Lender of the Optional Repayment Notice).
- (b) Provided that, within the Repayment Request Period, the Lender has not served written notice to the Borrower of its intention to exercise its Conversion Right, the Borrower shall repay the Loan in full at the Repayment Price on or prior to the long-stop date specified in the Optional Repayment Notice.
- (c) In the event that the Lender does serve notice on the Borrower of its intention to exercise its Conversion Right prior to the expiry of the Repayment Request Period:
 - (i) the Borrower shall not be entitled to repay any part of the Loan; and
 - (ii) such notice from the Lender shall constitute a Conversion Notice as contemplated by Clause 11.1(a) (*Conversion at the option of the Lender*) and the provisions of Clause 11.1 (*Conversion at the option of the Lender*) shall apply.

8.3 Repayment at the option of the Lender following a Change of Control

- (a) Subject at all times to the Lender's right of first offer as set out in Clause 24 (*Right of First Offer*) below, in the event of any proposed Change of Control Event, Esken and the Esken Shareholder shall give not less than two months' notice of such proposed Change of Control Event to the Lender (a ***Change of Control Notice***).
- (b) The Change of Control Notice shall specify:
 - (i) the identity of the third party which intends to acquire control;
 - (ii) the relevant shares being transferred;

- (iii) the proposed price; and
 - (iv) other material terms and conditions of such transfer and proposed Change of Control Event,

except where the Change of Control Event is an Insolvency Event in respect of a Material Person pursuant to Clause 8.3(f)(v), in which case the Change of Control Notice shall provide details of the relevant insolvency (or similar) event.
- (c) Upon receipt of the Change of Control Notice, the Lender may, within two months of receipt of such Change of Control Notice (the ***CoC Notice Period***) either:
- (i) serve written notice to the Borrower requiring that the Borrower repay the Loan in full at the Repayment Price by a date falling not less than three months following the date of such notice; or
 - (ii) serve written notice on the Borrower of its intention to exercise its Conversion Right, such notice constituting a Conversion Notice as contemplated by Clause 11.1(a) (*Conversion at the option of the Lender*) following receipt of which by the Borrower the provisions of Clause 11.1 (*Conversion at the option of the Lender*) shall apply.
- (d) In the event that the Lender has exercised neither of its rights under paragraphs (c)(i) or (c)(ii) above by the expiry of the CoC Notice Period, the Borrower may (at its option):
- (i) repay the Loan in full at the Repayment Price, within three months of the expiry of the CoC Notice Period; and/or
 - (ii) subject to Clause 8.3(e) below, implement the proposed Change of Control Event within six months of the expiry of the CoC Notice Period, provided that the terms of such Change of Control Event are substantially the same as the terms set out in the Change of Control Notice.
- (e) If the Borrower chooses to implement the proposed Change of Control Event contemplated by paragraphs (iii) and (iv) of Clause 8.3(f) below pursuant to the terms of Clause 8.3(d)(ii) above, the Borrower and the Esken Shareholder shall procure that the third party acquiring control shall accede to all Finance Documents to which the Esken Shareholder is a party and be subject to the same provisions as the Esken Shareholder thereunder.
- (f) A ***Change of Control Event*** occurs if:
- (i) Esken does not or ceases to control the Borrower Group or the Esken Shareholder;
 - (ii) Esken is not or ceases to be the beneficial owner (directly or indirectly through wholly-owned Subsidiaries) of the majority of the issued share capital of the Esken Shareholder;

- (iii) the Esken Shareholder does not or ceases to control the Borrower Group;
 - (iv) the Esken Shareholder is not or ceases to be the legal and beneficial owner (directly) of the majority of the issued share capital of the Borrower; or
 - (v) an Insolvency Event in respect of a Material Person.
- (g) For the purpose of this Agreement **control** means, in relation to any Undertaking (being the **Controlled Person**), being:
- (i) entitled to exercise, or control the exercise of (directly or indirectly) more than 50 per cent. of the voting power at any general meeting of the shareholders, members or partners or other equity holders (and including, in the case of a limited partnership, of the limited partners of) (or in the case of a trust, of the beneficiaries thereof) in respect of all or substantially all matters falling to be decided by resolution or meeting of such persons; or
 - (ii) entitled to appoint or remove or control the appointment or removal of:
 - (A) directors on the Controlled Person's board of directors or its other governing body (or, in the case of a limited partnership, of the board or other governing body of its general partner) who are able (in the aggregate) to exercise more than 50 per cent. of the voting power at meetings of that board or governing body in respect of all or substantially all matters; and/or
 - (B) any managing member of such Controlled Person;
 - (C) in the case of a limited partnership its general partner; or
 - (D) in the case of a trust, its trustee and/or manager; or
 - (iii) entitled to exercise a dominant influence over the Controlled Person (otherwise than solely as a fiduciary) by virtue of the provisions contained in its constitutional documents or, in the case of a trust, trust deed or pursuant to an agreement with other shareholders, partners, members or beneficiaries of the Controlled Person,

and **controller, controlled, and controlling** shall be construed accordingly.

8.4 Repayment at option of Borrower in relation to the Lender and payments under Clause 14 (*Tax Gross-up and Indemnities*)

- (a) If:
 - (i) any sum payable to the Lender by an Obligor is required to be increased under paragraph (c) of Clause 14.2 (*Tax gross-up*); or
 - (ii) the Lender claims indemnification from an Obligor under Clause 14.3 (*Tax Indemnity*),

the Borrower may, whilst the circumstance giving rise to the requirement to that increase or indemnification continues, serve written notice on the Lender (the ***Tax Repayment Notice***) specifying the long-stop date by which the Borrower intends repay the Loan (such date to be not less than two months nor more than 6 months following the date of receipt by the Lender of the Repayment Notice).

- (b) Provided that, within the Repayment Request Period, the Lender has not served written notice to the Borrower of its intention to exercise its Conversion Right, the Borrower shall repay the Loan in full at the Repayment Price on or prior to the long-stop date specified in the Tax Repayment Notice.
- (c) In the event that the Lender does serve notice on the Borrower of its intention to exercise its Conversion Right prior to the expiry of the Repayment Request Period:
 - (i) the Borrower shall not be entitled to repay any part of the Loan; and
 - (ii) such notice from the Lender shall constitute a Conversion Notice as contemplated by Clause 11.1(a) (*Conversion at the option of the Lender*) following receipt of which by the Borrower the provisions of Clause 11.1 (*Conversion at the option of the Lender*) shall apply.

8.5 Reborrowing

The Borrower may not reborrow the Loan once repaid.

8.6 Repayment Price

Notwithstanding the principal amount outstanding of the Loan at any time, or any accrued but unpaid interest on the Loan on any Repayment Date, any repayment of the Loan under this Agreement shall be at the Repayment Price only and irrevocable and unconditional payment of the Repayment Price shall discharge, irrevocably and unconditionally all liabilities of the Obligors arising under or in connection with repaying principal and paying interest in respect of the Loan.

9. Interest

9.1 Calculation of Interest

Interest shall accrue on the outstanding principal amount of the Loan during each Interest Period at a rate of:

- (a) 2 per cent per annum (the ***PIK Interest***); and
- (b) 8 per cent per annum (the ***Cash Interest***).

9.2 PIK Interest

On each Interest Payment Date, the principal amount of the Loan shall be increased by an amount equal to the PIK Interest accrued during the Interest Period immediately preceding such Interest Payment Date, and PIK Interest and Cash Interest shall thereafter accrue on the principal amount of the Loan as increased by such PIK Interest.

9.3 Cash Interest

- (a) Subject to the provisions of this Clause 9.3 (*Cash Interest*), on each Interest Payment Date, the Available Funds shall be applied by the Borrower to pay any Cash Interest which has accrued on the principal amount of the Loan during the Interest Period immediately preceding such Interest Payment Date.
- (b) Cash Interest shall only be payable to the Lender only to the extent that Minimum Liquidity Headroom Requirement is satisfied on the relevant Interest Payment Date.
- (c) On any Interest Payment Date, to the extent that there are insufficient Available Funds available to the Borrower on an Interest Payment Date to (i) pay all Cash Interest accrued and payable in full; and (ii) satisfy the Minimum Liquidity Headroom Requirement:
 - (i) the Borrower shall apply the Available Funds to make payment to the Lender on such Interest Payment Date of an amount equal to the Available Cash Interest Amount; and
 - (ii) the principal amount of the Loan shall be increased by an amount equal to the Unfunded Cash Interest Amount and PIK Interest and Cash Interest shall thereafter accrue on the principal amount of the Loan as increased by such Unfunded Cash Interest Amount.
- (d) The ***Minimum Liquidity Headroom Requirement*** shall be satisfied if:
 - (i) following the payment on the relevant Interest Payment Date of:
 - (A) Cash Interest accrued and payable on such date;
 - (B) any amounts in respect of Financial Indebtedness which ranks *pari passu* with or senior to the Loan in accordance with the terms of the Intercreditor Agreement payable on such date;
 - (C) any other Permitted Operating Expenditure and/or Permitted Capital Expenditure payable on such date; and
 - (D) any amounts in respect of Non-ICA Financial Indebtedness, and which are payable on such date,

there is a minimum headroom of at least £5 million of Cash available to the Obligors on such Interest Payment Date; and
 - (ii) during each month of the relevant Forecast Period:
 - (A) there is a minimum of £2.5 million of Projected Cash available to the Obligors; and
 - (B) when the Projected Cash for each month of the relevant Forecast Period is aggregated, the average Projected Cash available to the Obligors during the relevant Forecast Period is not less than £5 million.

10. Interest Periods

10.1 Interest Payment Date

Each **Interest Payment Date** shall be the fifth Business Day following the final date of each Interest Period.

10.2 Calculation of Interest Periods

Each Interest Period shall be each period from (and including), with respect to the first Interest Period, the Utilisation Date, and thereafter, from (and including) 1 March of each year to (but excluding) 1 March of the next year.

11. Conversion

11.1 Conversion at the option of the Lender

- (a) At any time prior to the Final Maturity Date and subject to Clause 11.3 (*Final Maturity Conversion Notice*), the Lender may elect, by serving no less than 30 days' written irrevocable notice (the **Conversion Notice**) on the Borrower, to exercise its conversion right in respect of the principal amount outstanding of the Loan at such time (the **Conversion Right**) so as to convert the Loan (in whole and not in part) into the Conversion Shares (the **Conversion**) on a specified date (being a Business Day not less than 60 days after the date of such notice, the **Conversion Date**). To the extent the Conversion is the subject of any Mandatory Consent, the Conversion Date shall be extended as required in order for such Mandatory Consent to be obtained.
- (b) On the Conversion Date, the Borrower shall issue and allot the Conversion Shares to the Lender following which all liabilities of the Obligor in respect of the principal amount outstanding of the Loan and any accrued but unpaid interest shall be irrevocably and unconditionally extinguished.
- (c) Subject to paragraph (d) below, on or prior to the Conversion Date (but in any event prior to the issue of the Conversion Shares), the Borrower shall:
 - (i) if so required by the Lender and specified in the Conversion Notice, issue and allot ordinary shares to the Esken Shareholder in an amount equal to the value of:
 - (A) such amount of outstanding Structural Shareholder Indebtedness as specified by the Lender to be capitalised, following which a corresponding portion of the outstanding Structural Shareholder Indebtedness shall be irrevocably and unconditionally waived, terminated and extinguished; and
 - (B) such amount of outstanding Esken Funded Amounts as specified by the Lender to be capitalised following which a corresponding portion of the outstanding Esken Funded Amounts shall be irrevocably and unconditionally waived, terminated and extinguished, and
 - (ii) if so required by the Lender and specified in the Conversion Notice, procure the irrevocable and unconditional waiver and release of all Permitted Wider Group Debt Guarantees.

(the **Conversion Capitalisation and Release Right**).

11.2 Conversion at the option of the Borrower

- (a) At any time following the fifth anniversary of the Closing Date, the Borrower may, upon written notice to the Lender (the ***Borrower Conversion Notice***), request that the Lender exercise its Conversion Right.
- (b) Within 60 days of receipt of the Borrower Conversion Notice, the Lender must either:
 - (i) consent in writing to the Conversion and deliver to the Borrower a Conversion Notice with such consent following receipt of which the provisions of Clause 11.1 (*Conversion at the option of the Lender*) shall apply; or
 - (ii) consent to the Borrower repaying the Loan in full at the Repayment Price by providing written notice to the Borrower within 30 days of the date of the Borrower conversion Notice, and the Borrower shall then specify to the Lender the long-stop date by which it intends to repay the Loan (such date to be no later than the date falling 6 months after receipt of the Lender's consent to repayment), and shall effect repayment by no later than that that long-stop date.

11.3 Final Maturity Conversion Notice

To the extent that the Loan has not been repaid in full at the Repayment Price or converted into Conversion Shares, the Borrower, may, at any time after the date falling 7 months prior to the Final Maturity Date, request that Lender irrevocably confirm whether it intends to exercise its Conversion Right on or prior to the Final Maturity Date. The Lender must, within one month of receipt of such request, provide irrevocable confirmation in writing as to whether or not it intends to exercise its Conversion Right.

11.4 Discharge of liabilities

Immediately upon the completion of the issuance by the Borrower of the Conversion Shares in accordance with this Clause 11 (*Conversion*), the rights, obligations and liabilities of each Party under this Agreement shall be satisfied and discharged in full and the provisions of this Agreement (other than those expressly stated to survive) shall cease to have effect.

11.5 Marketing

- (a) Prior to Conversion, if the Lender is considering exercising its Conversion Rights or syndicating its interest to any prospective investor in its Affiliates (as defined in the Shareholders' Agreement), it may informally discuss a potential sale or syndication of its Conversion Shares (as though it already held its Conversion Shares) with one or more third parties (other than Restricted Persons) and their consultants, agents and advisers with a view to ascertaining the potential value of a sale of all of the Conversion Shares, provided that the Lender shall not disclose any commercially sensitive information relating to the Borrower Group (as determined by the Senior Management OpCom Members (as defined in the Shareholders' Agreement), acting reasonably) (***Commercially Sensitive Information***) to third parties.
- (b) If the Lender is considering the potential value of a sale or syndication of the Conversion Shares, it may disclose non-public information, Confidential

Information and / or Commercially Sensitive Information to one or more third parties (other than Restricted Persons) and their consultants, agents and advisers with a view to ascertaining their interest in acquiring its Conversion Shares or participating in such syndication and the potential terms of any such acquisition or syndication (such discussion period being the **Marketing Period**), provided that:

- (i) before any such disclosure, the Lender obtains from each third party a confidentiality undertaking with the Borrower and the Esken Shareholder which must include at least the principles set out in Schedule 10 (*NDA Principles*) (entry into such confidentiality undertaking not to be unreasonably withheld, delayed or conditioned);
 - (ii) the Lender shall not enter into discussions with more than six third parties in a Marketing Period unless at such time an Event of Default is continuing with respect to the Borrower in which case no such restriction with respect to discussions with third parties shall apply;
 - (iii) the third parties shall only have access to Commercially Sensitive Information subject to such terms of access (including as to timing) as the Board may reasonably determine, taking into account, amongst other things, the extent to which such third party is (or Controls or is Controlled by) a competitor or commercial counterparty of the Borrower Group; provided always that the Borrower shall cooperate with the Lender in good faith and the Lender shall be entitled to designate a single third party as the “preferred transferee” and the Borrower shall grant at least the single preferred transferee access to such Commercially Sensitive Information as is reasonably necessary for such preferred transferee to make an appropriate determination of value of the Borrower Group with such access being on such terms as the Borrower and the Lender together may reasonably determine;
 - (iv) the third parties shall have access to Commercially Sensitive Information that the Esken Shareholder has provided to third parties in connection with a potential Transfer of its shareholding in the Borrower (in accordance with clause 11.5(d)).
- (c) If the Lender is considering the potential value of a sale of all of the Conversion Shares, the Borrower shall use reasonable endeavours to procure such assistance from the Borrower Group’s senior management as the Lender may reasonably request in the preparation and provision of non-public information to potential transferees, which shall comprise (but shall not be limited to) the following:
- (i) the provision of information for, and providing comments on, any “teaser” or information memorandum;
 - (ii) facilitating site visits (if permitted by Law and prevailing health and safety regulations);
 - (iii) assisting the Lender in collating and maintaining a physical or electronic data room containing Confidential Information;

- (iv) providing information for, and providing comments on, any vendor due diligence reports prepared by or on behalf of the Lender;
- (v) assisting with responding to questions raised by any third parties or providing additional information or documents to update any information contained in the physical or electronic data room;
- (vi) preparing management presentation materials reasonably requested by the Lender;
- (vii) attending management meetings with potential transferees, provided that there shall be no more than two sets of management meetings for each transferee,

and such assistance shall only be made available pursuant to this clause provided that:

- (A) the Lender gives reasonable notice to the Esken Shareholder and Borrower that such assistance will be required;
 - (B) management shall continue to have sufficient time to devote appropriate attention and care to the Borrower Group's Business and affairs;
 - (C) management shall continue to operate the Borrower Group's Business and affairs in the ordinary course and shall not take any actions which might adversely impact the Business;
 - (D) the Lender shall use all reasonable endeavours to limit the demands on management time; and
 - (E) all third party costs incurred by any member of the Borrower Group at the request, or with the prior written approval, of the Lender in connection with any proposed Transfer of Conversion Shares will be for the account of, and promptly reimbursed by, the Lender.
- (d) If the Esken Shareholder is considering making a Transfer of its shareholding in the Borrower or syndicating its interest to any prospective investor in its Affiliates (as defined in the Shareholders' Agreement), it may discuss such potential Transfer with and disclose non-public information, Confidential Information and / or Commercially Sensitive Information to, one or more third parties and their consultants, agents and advisers, provided that:
- (i) before any such disclosure, the Esken Shareholder obtains from each third party a confidentiality undertaking with LSA in respect of such Commercially Sensitive Information which must include at least the principles set out in Schedule 10 (*NDA Principles*);
 - (ii) the Esken Shareholder shall adopt a prudent approach in the provision of Commercially Sensitive Information to any third party (including considering the timing and manner of such disclosure); and

- (iii) the Esken Shareholder ensures that the information which the confidentiality undertaking considers to be Commercially Sensitive Information shall only be information which the Borrower determines to be commercially sensitive information (acting reasonably).

12. Emergency Funding

12.1 Emergency Funding Notice

- (a) At any time prior to Conversion under either Clauses 11.1 (*Conversion at the option of the Lender*) or 11.2 (*Conversion at the option of the Borrower*), if the Borrower, acting in good faith and first having considered all reasonable, practical and cost-effective alternatives in the circumstances, considers that there is a material risk of an Emergency Funding Situation arising, the Borrower shall promptly notify the Esken Shareholder, CGI and the Lender of the circumstances giving rise to, or which threaten to give rise to, an Emergency Funding Situation (such notice being an ***Emergency Funding Notice***), and together with such Emergency Funding Notice or as soon as practicable thereafter, details of the required funding needed by the Borrower Group.
- (b) The Borrower shall serve an Emergency Funding Notice on the Esken Shareholder, CGI and the Lender promptly upon the occurrence of an Emergency Funding Situation (to the extent it has not already done so as a result of the risk of an Emergency Funding Situation occurring pursuant to Clause 12.1(a) (*Emergency Funding Notice*)).

12.2 Emergency Funding

- (a) Immediately following the occurrence of an Emergency Funding Situation, the Borrower may seek to agree any such third-party financing as it considers to be a cost-effective form of financing to remedy such Emergency Funding Situation (***Third-Party Emergency Funding***).
- (b) The Lender and the Esken Shareholder each undertake to its use commercially reasonable endeavours to assist the Borrower in procuring cost-effective third-party financing to address such Emergency Funding Situation.
- (c) In the event that:
 - (i) the Borrower is unable to enter into any third-party financing arrangement on commercially acceptable terms within a reasonable period of time following the occurrence of an Emergency Funding Situation; or
 - (ii) the Borrower considers (acting reasonably) that such third-party financing will not be the most cost-effective form of financing available; or
 - (iii) an event of default has occurred or is, in the reasonable opinion of the Board, acting in good faith and in the best interests of the Borrower, reasonably likely to occur under any outstanding Third-Party Emergency Funding, or the relevant Emergency Funding Situation for which Third-Party Emergency Funding is currently outstanding has

continued for a period of more than six months and the Borrower considers that such Third-Party Emergency Funding is no longer appropriate for the Borrower Group,

the Borrower shall, by delivering a funding offer request to the Lender and the Esken Shareholder (a *Funding Offer Request*), offer both the Lender (or any Lender Affiliate nominated by the Lender, providing such Lender Affiliate must accede to all relevant Finance Documents, such accession to be substantially in the form of an Accession Letter except that such Lender Affiliate shall address such Accession Letter to the Borrower and the Lender Affiliate shall agree to be subject to the same obligations as the Lender) and the Esken Shareholder the opportunity to provide 30 per cent and 70 per cent respectively of such Financial Indebtedness as would, in its reasonable opinion, cure or avoid the relevant Emergency Funding Situation, or in respect of paragraph (iii) above, to replace the third party financing (the *Emergency Funding*).

- (d) The Borrower shall not, at any time, incur or seek to incur Emergency Funding to pay or otherwise fund the Repayment Price.

12.3 Emergency Funding terms

- (a) Each of the Lender (or any Lender Affiliate) and the Esken Shareholder shall, within 10 Business Days of receipt of the Funding Offer Request, notify the Borrower of the terms on which it would be prepared to participate in such Emergency Funding (the *Offer Terms*).
- (b) As soon as reasonably practicable following receipt of Offer Terms from both the Lender (or any Lender Affiliate) and the Esken Shareholder, the Borrower shall notify the Lender (or the relevant Lender Affiliate) and the Esken Shareholder which of the Offer Terms presented it is willing to agree to and the party which did not present such Offer Terms shall notify the Borrower whether it is willing to participate in the Emergency Funding on the same terms as such Offer Terms.
- (c) In the event that either the Lender (or any Lender Affiliate) or the Esken Shareholder (as applicable) does not agree to participate in the Emergency Funding on the Offer Terms or agrees to provide less funding than the pro rata proportion of Emergency Funding required, the other party may elect to provide the shortfall amount of the Emergency Funding on the Offer Terms.
- (d) In any event, any Emergency Funding in the form of Financial Indebtedness (whether provided by a third party, the Esken Shareholder, the Lender or a Lender Affiliate) up to, but not exceeding £10,000,000 (either in a single transaction or in aggregate with other outstanding Emergency Funding), shall rank as “Super Senior Liabilities” pursuant to the terms of the Intercreditor Agreement. Any Emergency Funding in excess of such capped amount shall be subordinated as “Junior Liabilities” pursuant to the terms of the Intercreditor Agreement.

13. Security Agent Fees

- 13.1 The Borrower shall pay to the Security Agent (for its own account) an agency fee in the amount and at the times agreed in the Fee Letter.

14. Tax gross up and indemnities

14.1 Definitions

(a) In this Agreement:

Qualifying Lender means:

(i) a person which is beneficially entitled to interest payable to that person in respect of an advance under a Finance Document and is:

(A) a person:

(I) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the Corporation Tax Act 2009; or

(II) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made and which is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or

(B) a Treaty Lender; or

(ii) a person which is a building society (as defined for the purpose of section 880 of the ITA) making an advance under a Finance Document;

Tax Credit means a credit against, relief or remission for, or repayment of any Tax;

Tax Deduction means a deduction or withholding for or on account of Tax from a payment under a Finance Document (excluding the Shareholders' Agreement), other than a FATCA Deduction;

Tax Payment means either the increase in a payment made by an Obligor to the Lender under Clause 14.2 (*Tax gross-up*) or a payment under Clause 14.3 (*Tax indemnity*);

Treaty Lender means a person which:

(iii) is treated as a resident of a Treaty State for the purposes of the Treaty;

(iv) does not carry on a business in the United Kingdom through a permanent establishment with which the Loan is effectively connected; and

- (v) meets all other requirements in the Treaty for full exemption from Tax imposed by the Relevant Jurisdiction of the relevant Borrower on interest payable under the Finance Documents;

Treaty State means a jurisdiction having a double taxation agreement (a Treaty) with the United Kingdom which makes provision for full exemption from tax imposed by the United Kingdom on interest.

Unless a contrary indication appears, in this Clause 14 a reference to **determines** or **determined** means a determination made in the absolute discretion of the person making the determination.

14.2 Tax gross-up

- (a) Each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Borrower shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Lender accordingly. Similarly, the Lender shall notify the Borrower on becoming so aware in respect of a payment payable to the Lender.
- (c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom, if on the date on which the payment falls due:
 - (i) the payment could have been made to the Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date the Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Party under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or published concession of any relevant taxing authority; or
 - (ii) the Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that (subject to the Obligor completing any necessary procedural formalities) the payment could have been made to the Lender without the Tax Deduction had the Lender complied with its obligations under paragraph (g) below.
- (e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (f) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction

shall deliver to the Lender a statement under section 975 of the ITA or other evidence reasonably satisfactory to the Lender that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

- (g) A Treaty Lender and each Obligor which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.

14.3 Tax indemnity

- (a) The Borrower shall (within three Business Days of demand by the Lender) pay to the Lender an amount equal to the loss, liability or cost which the Lender determines will be or has been (directly or indirectly) suffered for or on account of Tax by the Lender in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on the Lender:
 - (A) under the law of the jurisdiction in which the Lender is incorporated or, if different, the jurisdiction (or jurisdictions) in which the Lender is treated as resident for tax purposes; or
 - (B) under the law of the jurisdiction in which the Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by the Lender; or
 - (ii) to the extent a loss, liability or cost:
 - (A) is compensated for by an increased payment under Clause 14.2 (*Tax gross-up*); or
 - (B) would have been compensated for by an increased payment under Clause 14.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause 14.2 (*Tax gross-up*) applied; or
 - (C) relates to a FATCA Deduction required to be made by a Party.
- (c) If the Lender makes, or intends to make, a claim under paragraph (a) above it shall promptly notify the Borrower of the event which will give, or has given, rise to the claim.

14.4 Tax Credit

If an Obligor makes a Tax Payment and the Lender determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) the Lender has obtained and utilised that Tax Credit, the Lender shall pay an amount to the Obligor which the Lender determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Obligor.

14.5 Lender status confirmation

Each Lender which is not the Lender at the date of this Agreement shall indicate, in the documentation which it executes on becoming a Party as a Lender, and for the benefit of the Agent and without liability to any Obligor, which of the following categories it falls in:

- (a) not a Qualifying Lender;
- (b) a Qualifying Lender (other than a Treaty Lender); or
- (c) a Treaty Lender.

If such a Lender fails to indicate its status in accordance with this Clause 14.5 then that Lender shall be treated for the purposes of this Agreement (including by each Obligor) as if it is not a Qualifying Lender until such time as it notifies the Borrower which category applies. For the avoidance of doubt, the documentation which a Lender executes on becoming a Party as a Lender shall not be invalidated by any failure of a Lender to comply with this Clause 14.5.

14.6 Stamp taxes

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

14.7 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to the Lender which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, if VAT is or becomes chargeable on any supply made by the Lender to any Party under a Finance Document and the Lender is required to account to the relevant tax authority for the VAT, that Party must pay to the Lender (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and the Lender must promptly provide an appropriate VAT invoice to that Party).
- (b) Where a Finance Document requires any Party to reimburse or indemnify the Lender for any cost or expense, that Party shall reimburse or indemnify (as the case may be) the Lender for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that the Lender reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

- (c) Any reference in this Clause 14.6 to any Party shall, at any time when such Party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated as making the supply, or (as appropriate) receiving the supply, under the grouping rules as provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by a Member State) or the Value Added Tax Act 1994, as may be amended or substituted from time to time..

14.8 FATCA Information

- (a) Subject to paragraph (c) below, each Party shall, within 10 Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party;
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige the Lender to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

14.9 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower.

15. Other Indemnities

15.1 Currency indemnity

- (a) If any sum due from an Obligor under the Finance Documents (a *Sum*), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the *First Currency*) in which that Sum is payable into another currency (the *Second Currency*) for the purpose of:
 - (i) making or filing a claim or proof against that Obligor; or
 - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,that Obligor shall as an independent obligation, within three Business Days of demand, indemnify the Lender against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.
- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

15.2 Other indemnities

The Borrower shall (or shall procure that an Obligor will), within three Business Days of demand, indemnify the Lender against any cost, loss or liability incurred by the Lender as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by an Obligor to pay any amount due under a Finance Document on its due date;
- (c) funding, or making arrangements to fund, a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by the Lender alone); or

- (d) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower.

16. Mitigation by the Lenders

16.1 Mitigation

- (a) Notwithstanding Clause 28 (*Conduct of business by the Lender*), each Finance Party shall, in consultation with the Borrower, take all commercially reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to Clause 14 (*Tax gross-up and indemnities*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Lender Affiliate.
- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

16.2 Limitation of liability

- (a) The Borrower shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 16.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 16.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it.

17. Costs and Expenses

17.1 Amendment costs

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 29.7 (*Change of currency*), the Borrower shall, within 10 Business Days of demand, reimburse the Lender for the amount of all reasonable costs and expenses (including legal fees) reasonably and properly incurred by the Lender in responding to, evaluating, negotiating or complying with that request or requirement.

17.2 Enforcement costs

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

18. Guarantee and Indemnity

18.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally jointly and severally:

- (a) guarantees to the Lender punctual performance by the Borrower of all that Borrower's obligations under the Finance Documents;

- (b) undertakes with the Lender that whenever the Borrower does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with the Lender that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Lender immediately on demand against any cost, loss or liability it incurs as a result of the Borrower not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount payable by a Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 18 if the amount claimed had been recoverable on the basis of a guarantee.

18.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

18.3 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Guarantor under this Clause 18 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

18.4 Waiver of defences

The obligations of each Guarantor under this Clause 18 will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Clause 18 (without limitation and whether or not known to it or the Lender) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance

Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

18.5 Immediate recourse

Each Guarantor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 18. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

18.6 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, while an Event of Default is continuing, the Lender (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Lender (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Guarantor or on account of any Guarantor's liability under this Clause 18.

18.7 Deferral of Guarantors' rights

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Lender otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Clause 18:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender;
- (d) to bring legal or other proceedings for an order requiring an Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has

given a guarantee, undertaking or indemnity under Clause 18.1 (*Guarantee and indemnity*);

- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with the Lender.

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender for application in accordance with Clause 29 (*Payment mechanics*).

18.8 Release of Guarantors' right of contribution

If any Guarantor (a **Retiring Guarantor**) ceases to be a Guarantor in accordance with the terms of the Finance Documents for the purpose of any sale or other disposal of that Retiring Guarantor then on the date such Retiring Guarantor ceases to be a Guarantor:

- (a) that Retiring Guarantor is released by each other Guarantor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Guarantor arising by reason of the performance by any other Guarantor of its obligations under the Finance Documents; and
- (b) each other Guarantor waives any rights it may have by reason of the performance of its obligations under the Finance Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under any Finance Document or of any other security taken pursuant to, or in connection with, any Finance Document where such rights or security are granted by or in relation to the assets of the Retiring Guarantor.

18.9 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Lender.

19. Representations

Each Obligor makes the representations and warranties set out in this Clause 19 to the Lender on the date of this Agreement and on the Closing Date (unless specified otherwise).

19.1 Incorporation

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

19.2 Binding obligations

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

19.3 Non-conflict with other obligations

On the Closing Date only, the entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its Subsidiaries or any of its or any of its Subsidiaries' assets, breach of which would have a Material Adverse Effect.

19.4 Consents

It does not require the consent of any other party or the consent, licence, approval or Authorisation of any Governmental Authority in the United Kingdom in connection with the execution and delivery by it of the Transaction Documents to which it is expressed to be a party, the performance by it of its obligations under the Transaction Documents to which it is expressed to be a party and the compliance by it with their terms, except for those which have been, or will prior to the Closing Date be, obtained and are, or will on the Closing Date be, in full force and effect;

19.5 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

19.6 Validity and admissibility in evidence

On the Closing Date only, all Authorisations required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and
- (b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,
- (c) have been obtained or effected and are in full force and effect.

19.7 Governing law and enforcement

Subject to the Legal Reservations:

- (a) the choice of English law as the governing law of the Finance Documents will be recognised and enforced in its jurisdiction of incorporation; and
- (b) any judgment obtained in England in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

19.8 Solvency

No:

- (a) corporate action, legal proceeding or other procedure or step described in Clause 25.6 (*Insolvency proceedings*); or
- (b) creditors' process described in Clause 25.7 (*Creditors' process*),
has been taken or, to the knowledge of the Borrower, threatened in relation to the Borrower; and none of the circumstances described in Clause 25.5 (*Insolvency*) applies to the Borrower or a member of the Borrower Group.

19.9 Taxes – Transaction Documents

Under the laws of its jurisdiction it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Finance Documents except any filing, recording or enrolling or any tax or fee payable in relation to the Transaction Security Documents which will be made or paid promptly after the date of the relevant Transaction Security Document.

19.10 Accuracy of information

- (a) Any written factual information provided by any member of the Group in the Data Room was true and accurate in all material respects as at the date it was included in the Data Room or as at the date (if any) at which it is stated.
- (b) The financial projections contained in information referred to in paragraph (a) above have been prepared, as at their date, on the basis of recent (at the relevant time) historical information and on the basis of assumptions believed by it to be fair and reasonable at such time and have been arrived at after careful consideration.
- (c) The expressions of opinion or intention contained in any written materials provided by the Borrower and contained in the Data Room were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) based on reasonable grounds.
- (d) To the best of its knowledge and belief, it has not omitted to supply information in its possession or of which it is aware which, if disclosed, would make any of the information referred to in paragraph (a) above untrue or misleading in any material respect.

19.11 No default

- (a) No Event of Default is continuing or would result from the making of any Utilisation.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which would have a Material Adverse Effect.

19.12 Litigation

With the exception of the London Southend Airport Land Claims:

- (a) no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might individually or in the aggregate reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it.
- (b) no judgment or order of a court, arbitral body or agency which might reasonably be expected to have a Material Adverse Effect has (to the best of its knowledge and belief) been made against it.

19.13 No breach of laws

- (a) It has not breached any law, rule, judgment, order, decree or regulation which breach is having or is reasonably likely to have a Material Adverse Effect.
- (b) No labour disputes are current or, to the best of its knowledge and belief (having made due and careful enquiry), threatened against the Parent or any member of the Group which have or are reasonably likely to have a Material Adverse Effect.

19.14 Anti-Corruption Laws

It has not and to its knowledge, any agent, employee or other person acting on behalf of it has not engaged in any activity or conduct which would violate any provision of applicable Anti-Corruption Laws, and has not at any time during the prior three years (i) conducted or initiated any internal investigation resulting in disclosure to a Governmental Authority or made a voluntary, directed, or involuntary disclosure to any Governmental Authority or similar agency with respect to any alleged act or omission arising under or relating to any potential noncompliance with any Anti-Corruption Laws, or (ii) to the Borrower or relevant member of the Borrower Group's knowledge (as applicable) been the subject of current, pending, or threatened investigation, formal or informal inquiry or enforcement proceedings by any Governmental Authority for violations of Anti-Corruption Laws.

19.15 Anti-Money Laundering Laws

The operations of the Borrower are and have been conducted at all times in compliance with all applicable Anti-Money Laundering Laws and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving any member of the Borrower Group with respect to the Anti-Money Laundering Laws is pending or, to the best of each Obligor's knowledge (after due and careful enquiry), threatened.

19.16 Economic Sanctions Law and Trade Laws and Regulations

- (a) None of the Borrower nor, to the best of the Borrower's knowledge (after due and careful enquiry), any director, officer, agent, affiliate of or person acting on behalf of the Borrower:
 - (i) is currently a Sanctioned Person;
 - (ii) has engaged in or is engaged in any dealings or transactions with any government, person, entity or project targeted by, or located in any

country or territory, that at the time of the dealing or transaction is or was the subject of Sanctions in breach of such Sanctions; or

- (iii) is or has been at any time during the prior three years in violation of or subject to an investigation relating to any Economic Sanctions Law and Trade Laws and Regulations;
- (b) it will not directly or indirectly use the proceeds of the Loan or lend, contribute or otherwise make available all or part of such proceeds to any other person for the purpose of financing the activities of or business with any person currently subject to any Sanctions or operating in any country or territory that is the subject of Sanctions where such operations are in violation of such Sanctions or in any other manner that would result in a violation by any person of Sanctions;

provided that any provision of this Clause 19.16 shall not apply to any person if and to the extent that it is or would be unenforceable by or in respect of that person by reason of breach of any applicable Blocking Law; and

For the purposes of this Clause 19.16, **Blocking Law** means:

- (i) any provision of Council Regulation (EC) No 2271/1996 (or any law or regulation implementing such Regulation in any member state of the European Union);
- (ii) Council Regulation (EC) No 2271/96 as it forms part of domestic law by virtue of the EUWA; or
- (iii) any similar blocking or anti-boycott law.

19.17 Intellectual Property

On the Closing Date only:

- (a) it is the sole legal and beneficial owner of or has licensed to it on reasonable commercial terms all the Intellectual Property (including, in the case of the Borrower, an irrevocable and exclusive licence of the LSA Brand under the LSA Brand Licence) which is material in the context of its business (including the Permitted Business) and which is required by it in order to carry on its business (including the Permitted Business) in all material respects as it is being conducted and as contemplated in the Initial Business Plan; and
- (b) does not, in carrying on its businesses, infringe in any material respect any Intellectual Property of any third party in so far as the Borrower is aware.

19.18 Security

Other than (i) any Permitted Security and (ii) the Security granted in respect of the Existing Facility which is to be released on or prior to the Closing Date, no Security exists over all or any of the present or future assets of the Obligor.

19.19 Financial Statements

- (a) Its Original Financial Statements were prepared in accordance with GAAP consistently applied.

- (b) Its Original Financial Statements fairly present its financial condition as at the end of the relevant financial year and its results of operations during the relevant financial year.
- (c) Its most recent financial statements delivered pursuant to Clause 20.1(a) (*Information Undertakings*):
 - (i) have been prepared (a) in accordance with GAAP; and
 - (ii) fairly present its financial condition as at the end of, and its results of operations for, the period to which they relate.

19.20 Pari passu ranking

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

19.21 Capitalisation

The authorised share capital of the Borrower is £24,000, consisting of 24,000 shares of £1 each, fully paid.

As at the Closing Date, the authorised share capital of each Obligor (other than the Borrower) is £1, consisting of 1 share of £1 each, fully paid.

19.22 Pensions

No member of the Borrower Group is an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993) or “connected” with or an “associate” of (as those terms are used in sections 38 or 43 of the Pensions Act 2004) such an employer.

19.23 Filings

Save for the registration of the Transaction Security, (i) it is not necessary that any of the Transaction Documents to which the Borrower is expressed to be a party be filed, recorded or enrolled with any court or other authority in England or any other jurisdiction; and (ii) there are no registration, filing or similar formalities imposed in England upon the Borrower in connection with the Utilisation, the execution and delivery by the Borrower of the Transaction Documents to which it is expressed to be a party, the performance by the Borrower of its obligations under the Transaction Documents to which it is expressed to be a party and the compliance by it with their terms.

19.24 Management and administration

The management and the place at which meetings of the board of directors of the Borrower and each other member of the Borrower Group are held are all situated in England.

19.25 Centre of Main Interests

The Borrower and each other member of the Borrower Group has its “centre of main interests”, as that term is used in Article 3(1) of the Insolvency Regulation and in the UNCITRAL Regulations, in England.

19.26 No Establishment

The Borrower and each other member of the Borrower Group has no “establishment”, as that term is used in Article 2(10) of the Insolvency Regulation and in the UNCITRAL Regulations, or branch office in any jurisdiction other than England.

19.27 Taxes

It is resident for tax purposes solely in the United Kingdom and it is not materially overdue in the filing of any tax returns and has paid all taxes payable by it to the extent that they have become due, with the exception of penalties (if any) to be levied by HMRC in relation to the Borrower’s registration under the RDCO Regulations in 2020 (as disclosed in the Data Room).

19.28 No subsidiaries

The Borrower has no Subsidiaries which are not Obligor. The Obligor do not have any Subsidiaries.

19.29 Repetition

The Repeating Representations are deemed to be made by each Obligor by reference to the facts and circumstances then existing on:

- (a) the date of the Utilisation Request and the first day of each Interest Period; and
- (b) in the case of an Additional Obligor, the day on which the company becomes (or it is proposed that the company becomes) an Additional Obligor.

20. Information Undertakings and access rights

The undertakings in this Clause 20 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents.

20.1 Information undertakings

The Borrower shall supply to the Lender:

- (a) copies of:
 - (i) its audited consolidated financial statements for that financial year as soon as the same become available, but in any event within 270 days after the end of each of its financial years; and
 - (ii) the audited financial statements of each Obligor for that financial year as soon as the same become available, but in any event within 270 days after the end of each of its financial years; and
 - (iii) its unaudited consolidated financial statements for that financial year as soon as the same become available (once substantially complete but still subject to audit sign-off); and

- (iv) the unaudited financial statements of each Obligor for that financial year as soon as the same become available (once substantially complete but still subject to audit sign-off); and
- (b) all documents dispatched by the Borrower to its shareholders (or any class of them) (in their capacity as shareholders) or its creditors generally at the same time as they are dispatched;
- (c) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Borrower Group, and which might, if adversely determined, have a Material Adverse Effect;
- (d) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against any member of the Borrower Group, and which might have a Material Adverse Effect;
- (e) as soon as reasonably practicable, such further information regarding the financial condition, business and operations of any member of the Borrower Group as the Lender may reasonably request (subject to any confidentiality restrictions which restrict the Obligor from providing such information);
- (f) as soon as reasonably practicable and in any case within 10 Business Days of the end of each calendar month, copies of the monthly management accounts of each member of the Borrower Group (but provided that any commentary to the monthly management accounts shall be provided within 15 Business Days of the end of each calendar month);
- (g) as soon as reasonably practicable and in any case within 10 Business Days of the end of each calendar quarter, copies of the quarterly “deck” produced with respect to the performance of the Borrower Group in the most recent historical calendar quarter;
- (h) the monthly London Southend Airport Company Limited board pack; and
- (i) copies of any resolutions of the board of directors of each Obligor,

in each case, subject to applicable law and regulation, and provided always that any information which is reasonably requested by the Lender in accordance with Clause 20.1(e) above will only be provided to the extent that it is information which the Borrower is already accustomed to producing.

20.2 Requirements as to financial statements

- (a) Each set of financial statements delivered by the Borrower pursuant to Clause 20.1(a) (*Information Undertakings*) shall be certified by a director of the relevant company as fairly presenting its financial condition as at the date as at which those financial statements were drawn up.
- (b) The Borrower shall procure that each set of financial statements of an Obligor delivered pursuant to Clause 20.1(a) (*Information Undertakings*) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements for that Obligor unless, in relation to any set of financial statements, it notifies the

Lender that there has been a change in GAAP, the accounting practices or reference periods and its auditors (or, if appropriate, the auditors of the Obligor) deliver to the Lender:

- (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which that Obligor's Original Financial Statements were prepared; and
- (ii) sufficient information, in form and substance as may be reasonably required by the Lender, to enable the Lender to make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

20.3 Notification of default

- (a) The Borrower shall notify the Lender of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).
- (b) Promptly upon a request by the Lender, the Borrower shall supply to the Lender a certificate signed by two of its directors or senior officers on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

20.4 Access rights

The Borrower shall, upon reasonable request from the Lender addressed to the CEO, not more than twice each Financial Year unless an Event of Default is continuing permit representatives, agents and/or advisors of the Lender, upon reasonable prior notice and subject to all reasonable operational, security, legal and confidentiality restrictions, access during normal business hours to (a) the premises, assets, books, accounts and records of the Borrower and (b) meet and discuss matters with senior management.

21. General Undertakings

The undertakings in this Clause 21 remain in force from the Closing Date for so long as any amount is outstanding under the Finance Documents.

21.1 Authorisations

Each Obligor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

- (i) enable it to perform its obligations under the Finance Documents;
- (ii) ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document; and

- (iii) carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

21.2 Compliance with laws

Each Obligor shall comply in all respects with all laws to which it may be subject, if failure so to comply has or is reasonably likely to have a Material Adverse Effect.

21.3 Environmental compliance

Each Obligor shall:

- (i) comply with all Environmental Law; and
- (ii) obtain, maintain and ensure compliance with all requisite Environmental Permits,

where failure to do so has or is reasonably likely to have a Material Adverse Effect.

21.4 Anti-Corruption Laws

- (a) No Obligor shall directly or indirectly use the proceeds of the Facility for any purpose which would breach Anti-Corruption Laws.
- (b) Each Obligor shall:
 - (i) conduct its businesses in compliance with applicable Anti-Corruption Laws;
 - (ii) maintain policies and procedures designed to promote and achieve compliance with such laws; and
 - (iii) make and keep books, records and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the Obligor's assets.

21.5 Sanctions

- (a) The Borrower will ensure that none of the proceeds of the Loan will knowingly, directly or indirectly, be used, loaned, contributed, paid or otherwise made available to any person:
 - (i) which is a Sanctioned Person; or
 - (ii) in any other manner that would reasonably be expected to result in the Borrower or the Lender being in breach of applicable Economic Sanctions Law and Trade Laws and Regulations.
- (b) The Borrower shall not violate any applicable Economic Sanctions Law and Trade Laws and Regulations in any respect.
- (c) The Borrower will ensure that no funds used to pay obligations under the Finance Documents are knowingly directly or indirectly derived from funds that are the property of, or activities with, any Sanctioned Person or in any Sanctioned Territory, or in any other manner that would cause the Borrower or the Lender to be in breach of applicable Economic Sanctions Law and Trade Laws and Regulations.

21.6 Taxation

- (a) Each Obligor shall pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:
 - (i) such payment is being contested in good faith;
 - (ii) adequate reserves are being maintained for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Lender under Clause 20.1(a) (*Information Undertakings*); and
 - (iii) such payment can be lawfully withheld.
- (b) No Obligor may change its residence from the UK for Tax purposes.

21.7 Insurance

- (a) Each Obligor shall maintain or have the benefit of insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.
- (b) All insurances must be with reputable independent insurance companies or underwriters.

21.8 Pensions

The Borrower shall ensure that neither the Borrower nor any other Obligor is or has been at any time an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pension Schemes Act 1993) or “connected” with or an “associate” of (as those terms are used in sections 38 or 43 of the Pensions Act 2004) such an employer.

21.9 Negative pledge

In this Clause 21.9, *Quasi-Security* means an arrangement or transaction described in paragraph (b) below.

- (a) No Obligor shall create or permit to subsist any Security over any of its assets.
- (b) No Obligor shall:
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

- (c) Paragraphs (a) and (b) above do not apply to any Permitted Security.

21.10 Amendments

The Borrower shall not amend, vary, supplement, supersede, waive or terminate any of the terms of any Debt Document except in writing:

- (i) in accordance with Clause 35 (*Amendments and waivers*);
- (ii) to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination is permitted by the Intercreditor Agreement; or
- (iii) in any way which (i) is consistent with the provisions of the Finance Documents and in particular the rights of the Lender thereunder and (ii) could not in the reasonable opinion of the Borrower be expected to materially and adversely affect the interests of the Lender.

21.11 No Financial Indebtedness

- (a) No Obligor shall incur any Financial Indebtedness.
- (b) For so long as a Non-Cured Underperformance Trigger Event is not continuing, paragraph (a) shall not apply to the incurrence of Permitted Financial Indebtedness.
- (c) While a Non-Cured Underperformance Trigger Event is continuing, paragraph (a) shall not apply to the incurrence of the following Permitted Financial Indebtedness:
 - (i) any Permitted Financial Indebtedness in respect of rolling over Asset-Financing Facilities existing prior to the occurrence of the Non-Cured Underperformance Trigger Event; and
 - (ii) under paragraphs (d), (e), (g), and (i) of the definition of Permitted Financial Indebtedness.

21.12 Restricted Payments

- (a) No Obligor shall declare, make or pay a Restricted Payment.
- (b) For so long as a Non-Cured Underperformance Trigger Event is not continuing, paragraph (a) shall not apply if the Permitted Distribution Conditions are satisfied at the time at which the relevant Restricted Payment is to be declared, made or paid.
- (c) While a Non-Cured Underperformance Trigger Event is continuing, no Obligor shall declare, make or pay a Restricted Payment.
- (d) Notwithstanding the foregoing, an Obligor may make a payment pursuant to clause 7 (*Wrong Pockets*) of the Indemnity Deed at any time, whether or not a Non-Cured Underperformance Trigger Event is continuing.

21.13 No loans out

- (a) No Obligor shall be a creditor in respect of any Financial Indebtedness.
- (b) For so long as a Non-Cured Underperformance Trigger Event is not continuing, paragraph (a) above shall not apply to any Permitted Loan.
- (c) For so long as a Non-Cured Underperformance Trigger Event is continuing, paragraph (a) above shall not apply to any Permitted Loan previously advanced while a Non-Cured Underperformance Trigger Event was not continuing.

21.14 No outstanding guarantees to non-Obligors

No Obligor shall incur or allow to be outstanding any guarantee by such Obligor in respect of Financial Indebtedness of any person which is not an Obligor, other than a Permitted Guarantee.

21.15 Change of business

The Borrower and each Obligor shall not carry on any business that is not the Permitted Business.

21.16 Capital expenditure

- (a) For so long as a Non-Cured Underperformance Trigger Event is not continuing, no Obligor shall incur any capital expenditure other than Permitted Capital Expenditure.
- (b) While a Non-Cured Underperformance Trigger Event is continuing, no Obligor shall incur any capital expenditure other than (i) capital expenditure to the extent that it is considered by the Borrower, acting reasonably and in good faith, to be essential maintenance capital expenditure or (ii) Permitted Capital Expenditure the incurrence of which any Obligor was contractually committed to prior to the occurrence of such Non-Cured Underperformance Trigger Event.

21.17 Operating expenditure

No Obligor shall incur any operating expenditure other than Permitted Operating Expenditure.

21.18 Disposals

- (a) No Obligor shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.
- (b) Paragraph (a) above shall not apply to any Permitted Disposals.

21.19 Acquisitions

- (a) No Obligor shall enter into a single transaction or a series of transactions (whether related or not) to:
 - (i) acquire any company, shares, business or undertaking (or in each case any interest the foregoing) from any person; or

- (ii) incorporate a company, partnership, firm or any other form of corporation or organisation for the purposes of acquiring any company, shares, business or undertaking (or in each case any interest in them) from any person.
- (b) For so long as a Non-Cured Underperformance Trigger Event is not continuing, paragraph (a) above shall not apply to any Permitted Acquisition.

21.20 Share Capital

No Obligor shall:

- (a) issue or pay up any securities of an Obligor including, without limitation, shares, or options, warrants or other rights to subscribe for or purchase or acquire shares in such Obligor;
- (b) amend the rights attaching to any securities of an Obligor with respect to voting, dividends or otherwise; or
- (c) reduce its issued share capital, share premium account, or any uncalled liability in respect thereof, or any non-distributable reserves,

other than:

- (i) in the case of (a), as required in connection with the issue of the Conversion Shares, the exercise of the Conversion Capitalisation and Release Right or exercise of the Subordinated Debt Capitalisation and Release Right; or
 - (ii) in each case, as agreed between the Borrower and the Lender.

21.21 Operational Committee and Strategic Committee

The Borrower shall procure that:

- (a) there will be no material change to the authority of the Operational Committee; and
- (b) no further committees shall be established for the purposes of managing the Borrower, the Borrower Group or any Obligors,

in each case without the prior written consent of the Lender.

21.22 Transactions to be on arm's length basis

- (a) No Obligor shall enter into, renew or amend any transaction, contract or arrangement (other than (i) Permitted Recharges provided they continue to be Permitted Recharges or (ii) in respect of any Esken Funded Amounts and/or any Emergency Funding) with the Esken Shareholder or the Wider Group which is any of the following:
 - (i) outside the ordinary course of business (which shall include borrowing or advancing any Financial Indebtedness); or
 - (ii) within the ordinary course of business and on arm's length terms and which has a value of more than £200,000 within any financial year; or

(iii) any such transaction, contract or arrangement, which (when aggregated with the value of all other such transactions, contracts or arrangements being incurred within the same financial year) has a value of more than £2,000,000; or

(iv) not on commercial arm's length terms,

each such contract being an *Esken Contract*.

(b) Notwithstanding the restrictions in paragraph (a) above, an Obligor shall be permitted to:

(i) renew any Esken Contract at the expiry of its term provided that its terms are not materially less favourable to the Obligor as compared to prior to such renewal.

(ii) amend any Esken Contract provided that the effect of any such amendment is not materially detrimental to the Obligor having regard to the terms of the relevant Esken Contract as a whole.

21.23 Constitutional documents

No Obligor shall make amendments to its constitutional documents without the prior written consent of the Lender, other than any amendments required in connection with the issue of the Conversion Shares.

21.24 Corporate structure

The Borrower shall procure that no changes shall be made to the corporate structure of the Borrower Group without the prior written consent of the Lender.

21.25 Material Contracts

No Obligor shall enter into any Material Contract without the prior written consent of the Lender, such consent not to be unreasonably withheld or delayed.

21.26 Funding through the Borrower

Any funds injected into the Borrower Group, by way of Permitted Financial Indebtedness, shall be incurred by the Borrower before it is advanced by the Borrower to any other Obligor.

21.27 Distributions passing through the Borrower

Any distributions permitted to be made by any Obligor in accordance with this Agreement must pass through the Borrower to the extent such distributions are ultimately to be made to any member of the Wider Group.

21.28 No partnerships

No Obligor shall enter into any material partnerships or joint ventures without the prior written consent of the Lender, such consent not to be unreasonably withheld or delayed.

21.29 Additional Obligors

- (a) The Borrower shall procure that each Obligor grants the Transaction Security and carries out any action to protect, perfect or give priority to the Transaction Security as soon as reasonably practicable after the date of this Agreement or after the date on which it accedes as an Obligor.
- (b) The Borrower shall procure that each member of the Borrower Group, or any entity that becomes part of the Borrower Group, shall, accede as an Additional Guarantor under this Agreement, and shall accede as a “Debtor” to the Intercreditor Agreement, in each case, as soon as reasonably practicable (and in any event within 20 Business Days of becoming part of the Borrower Group) or, in the case of any member of the Borrower Group which owns a Material Asset, 10 Business Days of becoming part of the Borrower Group).

21.30 Hedging arrangements

No Obligor shall enter into any hedging arrangements other than hedging arrangements that are non-speculative and in the ordinary course of such Obligor conducting its Permitted Business.

21.31 Relevant Contracts

If any Relevant Contract is to be amended or supplemented in any material respect (whether in connection with a novation, extension or replacement or otherwise) or any Relevant Contract is to be entered into by any Obligor, the relevant Obligor shall, having regard to the relationship with the counterparty to the relevant Relevant Contract and, with respect to the Borrower Group, any potential adverse effect on the negotiations with the relevant counterparty, use reasonable endeavours to include provisions in such Relevant Contract or to obtain the consent of the relevant counterparty which either expressly permit or otherwise do not restrict the following:

- (a) the granting of fixed or floating first ranking Transaction Security, including an assignment by way of security, in respect of such Relevant Contract; and
- (b) the assignment, transfer, novation or other disposal of all the rights and obligations of the relevant Obligor under the Relevant Contract to any person (or persons together) acquiring all or substantially all the assets of (or any substantial part of the assets comprising the business conducted by) the relevant Obligor.

21.32 Lender consultation in respect of senior executive remuneration

- (a) The Esken Shareholder shall consult with the Lender at the Strategic Committee level in respect of the remuneration (for the avoidance of doubt, including both base remuneration and any discretionary payments) of the senior executive employees of the Borrower Group.
- (b) The Lender shall have the right to be consulted in relation to:
 - (i) the implementation of any new employee incentive schemes; and
 - (ii) any material amendment to any existing employee incentive schemes of the Wider Group,

in each case solely to the extent such employee incentive scheme relates to the directors and senior executives of the Borrower Group.

- (c) The Borrower undertakes that any incentive scheme for employees of the Borrower Group shall be based on performance of the Borrower Group on at least a 70:30 basis between the performance of the Borrower Group on the one hand and the performance of the Group as a whole.

21.33 Maintenance and retention of brands and trademarks

- (a) The Borrower Group shall maintain and retain all material brands and trademarks reasonably required for the operation of the business, including for the avoidance of doubt, in relation to London Southend Airport, as are in place as at the Closing Date.
- (b) Following completion of any tax enquiries currently ongoing within Stobart Group Brands LLC, the Borrower shall use its reasonable endeavours to procure that rights to the LSA Brand are transferred to the Borrower from Stobart Group Brands LLC but provided always that such transfer does not result in any tax liability arising in the Wider Group or in the Borrower Group.

21.34 Appointments to board of Obligors

While a Non-Cured Underperformance Trigger Event is continuing, no Obligor shall make any additional appointments to the board of any member of the Borrower Group where such appointment is not contemplated in the Revised Plan other than to replace directors upon dismissal, retirement, sudden resignation, death or temporary vacancies.

21.35 ORR

- (a) The Borrower shall use its reasonable endeavours to obtain the approval and confirmation of The Office of Rail and Road (**ORR**) that it shall not issue a notice of intended revocation in respect of the licence referred to below notwithstanding the Lender (or any Lender Affiliate) being entitled to convert into 30 per cent. of the fully diluted share capital of the Borrower (as if the reference in the definition of “Conversion Shares” herein was to 30 per cent. rather than 29.9999 per cent.), to the extent required for the “control” provisions of the licence (reference number: UK 03 2020 0005) granted by the ORR in respect of the Train Station (the **ORR Approval**).
- (b) The Lender shall:
 - (i) as soon as reasonably practicable, provide all information which is requested or required: (i) by the ORR; and (ii) by the Borrower or the Esken Shareholder in connection with obtaining the ORR Approval;
 - (ii) as soon as reasonably practicable, (but in any case, within 5 Business Days) notify the Borrower and the Esken Shareholder (and provide copies or, in the case of non-written communications, details) of any communications with or from the ORR relating to the ORR Approval.

21.36 Relevant Merger Situation

Notwithstanding the representations set out in Clause 19 (*Representations*) and undertakings set out in this Clause 21, no conflict with or breach of such representations and/or undertakings will occur with respect to the Enterprise Act 2002 (UK) to the extent that any such conflict or breach is related to the fact that the parties entering into and/or performing their obligations pursuant to the Finance Documents and/or Shareholders' Agreement causes or may cause a relevant merger situation to arise, as that term is defined in Part 3 of the Enterprise Act 2002 (UK).

22. Underperformance Trigger Events

22.1 Subject to the Cure Periods, an underperformance trigger event (*Underperformance Trigger Event*) shall occur as follows:

- (a) a **Band 1 PAX UTE** shall occur if, on any Underperformance Test Date, PAX (calculated on a LTM basis) is less than or equal to the relevant threshold specified in the column entitled "Band 1 UTE" in the table set out in Part A of Schedule 4 (*Underperformance Trigger Events*);
- (b) a **Band 2 PAX UTE** shall occur if, on any Underperformance Test Date, PAX (calculated on a LTM basis) is less than or equal to the relevant threshold specified in the column entitled "Band 2 UTE" in the table set out in Part A of Schedule 4 (*Underperformance Trigger Events*);
- (c) a **Band 1 Adjusted EBITDA UTE** shall occur if, on any Underperformance Test Date, Adjusted EBITDA (calculated on a LTM basis) is less than or equal to the relevant threshold specified in the column entitled "Band 1 UTE" in the table set out in Part B of Schedule 4 (*Underperformance Trigger Events*); and/or
- (d) a **Band 2 Adjusted EBITDA UTE** shall occur if, on any Underperformance Test Date, Adjusted EBITDA (calculated on a LTM basis) is less than or equal to the relevant threshold specified in the column entitled "Band 2 UTE" in the table set out in Part B of Schedule 4 (*Underperformance Trigger Events*).

22.2 The Underperformance Trigger Events shall be tested on each Underperformance Test Date commencing on 31 August 2022 up to (and including) the Underperformance Test Date immediately preceding the Conversion Date.

22.3 Upon the occurrence of an Underperformance Trigger Event:

- (a) a revised Business Plan and Annual Budget (including revised capital expenditure plan in order to assist with the cure) shall be jointly agreed on a commercially reasonable basis between the Lender and the Esken Shareholder as soon as possible and in any event within a six week period (the **Revised Plan**). To the extent that a Revised Plan cannot be agreed between the Lender and the Esken Shareholder within such period, the Borrower shall adopt the Revised Plan as proposed by the Esken Shareholder.
- (b) The Lender may commission an independent review by technical advisers appointed by Lenders (the **Reviewers**) to examine the causes of the relevant Underperformance Trigger Event and recommend appropriate corrective measures (and such review shall be at the Borrower's cost if commissioned following the occurrence of a Non-Cured Underperformance Trigger Event).

- (c) The Esken Shareholder and the Obligors shall review and consider with the Lender and the Reviewers the Revised Plan and the outputs of such Revised Plan.
- (d) The Lender and the Esken Shareholder shall promptly meet following the occurrence of any Underperformance Trigger Event to discuss whether to implement management changes, including replacing the CEO and/or Finance Director.

22.4 Upon the occurrence of a Non-Cured Underperformance Trigger Event:

- (a) The Lender shall have the right to appoint additional non-executive directors to the board of any Obligor, but provided always that directors appointed by the Esken Shareholder shall always constitute a majority of any such board, and, if the appointment of such non-executive directors would result in the Lender having a majority of any board, the Lender may instead appoint observers to any board of any Obligor;
- (b) The Lender and the Esken Shareholder shall promptly meet following the occurrence of a Non-Cured Underperformance Trigger Event to discuss management changes, including replacing the CEO and/or Finance Director, and if so decided, the Esken Shareholder and Lender shall:
 - (i) agree a replacement for each role from a shortlist of four available candidates for each role, with such candidates to be nominated by an independent search firm and to be independent of both Lender and Esken and its Subsidiaries;
 - (ii) each have the right to veto one candidate each such that two candidates will remain; and
 - (iii) then agree which of the two remaining candidates to appoint. If the Esken Shareholder and Lender cannot reach an agreement within two weeks, the Lender shall have the final decision; and
 - (iv) any costs and expenses in relation to the termination of existing management shall be at the Borrower's cost.
- (c) The Lender and the Esken Shareholder shall consider whether the current Revised Plan remains appropriate and the Esken Shareholder shall have the deciding right in respect of any changes to the Revised Plan.

22.5 In the event that the Borrower Group effects a Cure such that a Band 2 PAX UTE or a Band 2 Adjusted EBITDA UTE becomes a Band 1 PAX UTE or a Band 1 Adjusted EBITDA UTE (as applicable), the relevant Cure Periods for the purposes of such event shall be as set out in Part C of Schedule 4 to this Agreement with respect to the occurrence of a Band 1 PAX UTE or a Band 1 Adjusted EBITDA UTE (as applicable), subject to a maximum period of 18 months (including the initial Cure Period), unless such Cure Period is the subject of a Market Driven PAX Trigger Event.

23. Governance undertakings

23.1 Operational Committee

With effect from the Closing Date, the Borrower undertakes to establish an Operational Committee in accordance with the terms set out in the Shareholders' Agreement.

23.2 Strategic Committee

With effect from the Closing Date, the Esken Shareholder undertakes that it shall establish a strategic committee for shareholder-level discussions (the *Strategic Committee*) in accordance with the terms set out in the Shareholders' Agreement.

23.3 Insolvency Event in respect of a Material Person

(a) Subject to paragraphs (b) and (c) below, following the occurrence of an Insolvency Event in respect of a Material Person, and until such time as either:

- (i) the Insolvency Event in respect of such Material Person has ceased or is no longer continuing; or
- (ii) a Change of Control Event has occurred (other than as contemplated by limb (v) of the definition of Change of Control Event) such that the Borrower is controlled (directly or indirectly) by a person or persons which is not subject to an Insolvency Event,

(each an *Insolvency Event Cessation Event*) whichever is earlier, the Lender shall have the right to appoint the minimum number of:

- (x) directors to constitute the majority of the Board (and remove such appointees); and
- (y) members of any sub-committees of the Board (including the Operational Committee) to constitute the majority of such sub-committee (and remove such appointees).

(b) To the extent that the Lender exercises its rights under paragraph (a) and appoints a majority of the Board, the Lender shall, so far as it is legally able (for the avoidance of doubt, this does not require the Lender to direct or instruct the Board or the Borrower or any director):

- (i) exercise its rights in relation to the Borrower to procure that, no action or decision is taken (whether by the Board, the Borrower, any member of the Borrower Group or any of their officers or managers) in respect of any Board Matter or Investor Matter without the prior consent of at least one Director appointed by each of the Lender and the Esken Shareholder, as though the Reserved Matters in the Shareholders' Agreement applied from the date on which the Lender exercises its right to appoint a majority of the Board; and
- (ii) exercise its rights in relation to the Borrower to procure that no material updates or amendments are made to the then current Business Plan and Annual Budget for such period as the Lender is entitled to exercise its rights under paragraph (a) without the consent of the directors appointed by the Esken Shareholder.

(c) Immediately upon the occurrence of an Insolvency Event Cessation Event, the directors of the Board which have been appointed by the Lender shall cease to

have any rights to vote at any Board Meeting and the Lender shall promptly remove such directors from the Board. If the Lender fails to remove its directors in accordance with this Clause (c)23.3(c), the directors not appointed by the Lender shall (if necessary) resolve to remove the CGI Director(s) (such removal to take effect from the date the Board's resolution is passed) and the Lender shall indemnify (on an after-tax basis) the Esken Shareholder and the Borrower from and against any liability each of them may incur for compensation for loss of office, any claim for unfair or wrongful dismissal or otherwise arising in connection with that director ceasing to hold office.

24. Right of First Offer

24.1 Change of Control Notice in relation to a CoC Transaction

If Esken or the Esken Shareholder proposes to enter into a transaction which will result in the occurrence of an event set out in Clause 8.3(f)(i) to 8.3(f)(iv) (*Repayment at the option of the Lender following a Change of Control*) (the **CoC Transaction**), the Change of Control Notice required to be sent pursuant to Clause 8.3(a) (*Repayment at the option of the Lender following a Change of Control*) shall specify, in addition to the information set out in Clause 8.3(b) (*Repayment at the option of the Lender following a Change of Control*):

- (i) that Esken or the Esken Shareholder (as applicable) is intending to enter into a CoC Transaction;
- (ii) that the Lender shall have 20 Business Days from the date of the Change of Control Notice (the **CoC Offer Period**) to give a notice in writing to Esken and the Esken Shareholder (the **ROFO Offer Notice**) at the end of which period if the Lender has not provided a ROFO Offer Notice, the CoC Offer Period shall be deemed to have expired.

24.2 ROFO Offer Notice

- (a) The ROFO Offer Notice shall specify:
 - (i) the price per share of a proposed offer to acquire the Shares held by the Esken Shareholder in the Borrower, which shall be a fixed price in cash and must not include any element of deferred or contingent consideration (the **ROFO Offer Price**);
 - (ii) the terms of the offer, which shall not:
 - (A) be subject to any conditions other than Mandatory Consents;
 - (B) include any representation, undertaking, warranty, indemnity or covenant from the Esken Shareholder other than customary warranties or covenants as to its title, authority and capacity to sell the Shares held by it; and
 - (C) include terms which are not customary or which are not market standard terms for a share acquisition; and

- (iii) that the Esken Shareholder shall have 30 calendar days from receipt of the ROFO Offer Notice to accept the terms set out therein (the **ROFO Offer Period**).
- (b) The giving of a ROFO Offer Notice by the Lender to the Esken Shareholder shall constitute an irrevocable offer by the Lender (the **ROFO Offer**) to acquire all of the Shares held by the Esken Shareholder in the Borrower at the ROFO Offer Price and on the other terms set forth in the ROFO Offer Notice.
- (c) The Esken Shareholder may irrevocably accept the ROFO Offer by written notice to the Lender prior to the expiration of the ROFO Offer Period.

24.3 Right to sell to third parties

Upon the earlier of:

- (i) expiry of the CoC Offer Period without the Lender having issued a ROFO Offer Notice;
- (ii) expiry of the ROFO Offer Period without a response from the Esken Shareholder; and
- (iii) the Esken Shareholder declining the ROFO Offer,

(the **ROFO Closing Date**), if any ROFO Offer Notice has been delivered pursuant to Clause 24.2(b) (*ROFO Offer Notice*) above, it shall lapse and cease to be effective (and the Lender shall no longer have the right to serve a ROFO Offer Notice if it has not done so) and the Esken Shareholder shall be entitled to complete the CoC Transaction on the terms set out in 24.4(b) below.

24.4 Transfer terms and Mandatory Consents

- (a) A Transfer of Shares to the Lender following acceptance by the Esken Shareholder of a ROFO Offer shall:
 - (i) take place in accordance with the following provisions:
 - (A) the Transfer shall be governed by English Law;
 - (B) the Shares shall be sold free from Encumbrances and with Full Title Guarantee;
 - (C) the Esken Shareholder shall ensure (insofar as it is able) that the relevant Transfer (subject to it being duly stamped, stamp duty to be paid by the Lender where required) is registered in the Lender's name or as it may direct;
 - (D) the Esken Shareholder shall do all such other things and execute all other documents (including any deed) as the Lender may reasonably request to give effect to the sale and purchase of the Shares; and
 - (E) if requested by the Lender, the Esken Shareholder shall ensure that all Directors appointed by it resign and the resignation(s) take effect without any liability on the Borrower or any other

Borrower Group Company for compensation for loss of office or otherwise (save to the extent that the liability arises in relation to a service contract with a Director who was acting in an executive capacity) and appropriate replacements nominated by the Lender are appointed at closing of the relevant transaction;

- (ii) complete by no later than:
 - (A) 20 Business Days following the expiry of the ROFO Offer Period; or
 - (B) if any Mandatory Consents are required and have not been obtained within 20 Business Days of the expiry of the ROFO Offer Period, within 15 Business Days of the Mandatory Consents being obtained, but if the transfer has not completed on or prior to the date which is six months from the end of the ROFO Offer Period (or such extended period as may be agreed in writing between the Lender and Esken Shareholder), the ROFO Offer shall lapse and cease to be effective.
- (b) Any CoC Transaction may only be completed on the following terms:
 - (i) the price for the CoC Transaction must imply (on a look-through basis) a price for each Share which is not less than the ROFO Offer Price (and Esken and the Esken Shareholder shall confirm in writing and in good faith that such is the case);
 - (ii) the CoC Transaction must complete within 12 months from the ROFO Closing Date, failing which it shall be necessary for Esken and the Esken Shareholder to deliver a new Change of Control Notice to the Lender and the provisions of Clauses 24.1 to 24.4 separately complied with in order to complete the CoC Transaction (or any new or revised offer from the purchaser in relation thereto); and
 - (iii) the terms of the CoC Transaction must be on customary terms.

25. Events of Default

Each of the events or circumstances set out in this Clause 25 is an Event of Default (save for Clause 25.12 (*Acceleration*)).

25.1 Non-payment

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

- (a) its failure to pay is caused by administrative or technical error; or
- (b) its failure to pay is caused by a Disruption Event,
and such failure to pay is not remedied within five Business Days of its due date.

25.2 Other obligations

- (a) An Obligor (or any other member of the Group party to any Transaction Document) does not comply with any provision of the Transaction Documents (other than those referred to in Clause 25.1 (*Non-payment*)).
- (b) No Event of Default under paragraph (a) above will occur if the failure is capable of remedy and is remedied within 45 Business Days of the Lender giving notice to the Borrower of the failure to comply.

25.3 Misrepresentation

- (a) Any representation or statement made or deemed to be made by an Obligor in the Transaction Documents (or any other member of the Group party to any Transaction Document), or in any other document delivered by or on behalf of any Obligor under or in connection with any Transaction Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made by reference to the facts and circumstances then existing.
- (b) No Event of Default will occur under paragraph (a) above if the failure to comply is capable of remedy and is remedied within 30 Business Days of the earlier of (i) the Lender giving notice to the Borrower of such failure and (ii) any Obligor becoming aware of the failure to comply.

25.4 Cross default

Any Financial Indebtedness in respect of a Super Senior Facility is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

25.5 Insolvency

- (a) An Obligor is unable or admits inability to pay its financial debts as they fall due, is deemed to, or is declared to, be unable to pay its debts under applicable law, or by reason of actual or anticipated financial difficulties, suspends making payments on any of its debts or commences negotiations with its financial creditors generally (excluding the Lender in such capacity) with a view to rescheduling any of its indebtedness;
- (b) The value of the assets of any member of the Borrower Group is less than its liabilities (taking into account contingent and prospective liabilities); or
- (c) A moratorium is declared in respect of all or any substantial part of the indebtedness of any Obligor.

25.6 Insolvency proceedings

- (a) A shareholders' or directors' resolution is passed or an order is made for the winding-up or dissolution of, or a liquidator, administrator, compulsory manager or other similar officer is appointed in respect of, an Obligor, other than for a solvent winding-up, dissolution or liquidation of an Obligor (other than the Borrower or any Obligor owning a Material Asset);

- (b) A shareholders' or directors' resolution is passed, or an order is made, or an agreement is entered into by an Obligor, for the suspension of payments by, or a general composition, or assignment for the benefit of the creditors of, an Obligor;
- (c) The directors of any Obligor pass a resolution for that Obligor's administration or otherwise request the appointment of an administrator for that Obligor; or
- (d) The appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer is appointed in respect of an Obligor or any of its assets, or any Security is enforced over an Obligor's assets, having an aggregate value of and in respect of indebtedness aggregating not less than £5 million,
- (e) or any analogous procedure or step is taken in any jurisdiction.

25.7 Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of an Obligor having an aggregate value of at least £500,000 and in respect of indebtedness aggregating at least £500,000 and is not discharged within 20 Business Days.

25.8 Borrower loss of control of Borrower Group

- (a) the Borrower does not or ceases to own and control the other members of the Borrower Group.
- (b) the Borrower is not or ceases to be the legal and beneficial owner (directly or indirectly) of the entire issued share capital of each other member of the Borrower Group.

25.9 Unlawfulness

- (a) It is or becomes unlawful for an Obligor (or any other member of the Group party to any Transaction Document) to perform any of its obligations under the Transaction Documents.
- (b) Any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective or any subordination created under the Intercreditor Agreement is or becomes unlawful.
- (c) Any obligation or obligations of any Obligor under any Finance Documents or any other member of the Group party to the Intercreditor Agreement are not (subject to the Legal Reservations and, in the case of the Transaction Security Documents, the Perfection Requirements) or cease to be legal, valid, binding or enforceable.

25.10 Repudiation

An Obligor (or any other member of the Group party to any Transaction Document) repudiates a Transaction Document or any of the Transaction Security or evidences an intention to repudiate a Transaction Document or any of the Transaction Security.

25.11 Loss of authorisation to operate London Southend Airport

The termination of any material licence or Authorisation which is required for the operation of London Southend Airport in circumstances where a replacement licence or Authorisation is required for the operation of London Southend Airport and such licence or Authorisation is not replaced.

25.12 Acceleration

- (a) Upon the occurrence of an Event of Default (or, if later, the date as of which the Lender is notified or becomes aware of such Event of Default), the Lender shall have 60 days from the date of such occurrence to elect to either:
 - (i) exercise its Conversion Right; or
 - (ii) do one or both of the following:
 - (A) require that the Borrower repay the Loan in full at the Repayment Price; and/or
 - (B) take Enforcement Action.
- (b) In the event that within 90 days of the occurrence of the Event of Default (or, if later, the date as of which the Lender is notified or becomes aware of such Event of Default), the Lender has neither elected to exercise its Conversion Right, made a demand for Repayment of the principal amount outstanding of the Loan, nor granted a waiver in respect of the Event of Default, the Borrower shall have the right to repay the Loan in full at the Repayment Price.
- (c) Notwithstanding the foregoing, whilst the Event of Default is continuing, the Lender shall have the right to accelerate the Loan and/or take any Enforcement Action.

25.13 Capitalisation of Subordinated Debt

- (a) Subject to paragraph (b) below, to the extent that, following the occurrence of an Event of Default, the Lender has elected to require that the Borrower repay the Loan in full at the Repayment Price and/or take Enforcement Action, the Lender may require that the Borrower:
 - (i) issue ordinary shares to the Esken Shareholder in an amount equal to the value of:
 - (A) such amount of outstanding Structural Shareholder Indebtedness as specified by the Lender to be capitalised, following which a corresponding portion of the outstanding Structural Shareholder Indebtedness shall be irrevocably and unconditionally terminated and extinguished and capitalised (by the issuance of the shares referred to above); and
 - (B) such amount of outstanding Esken Funded Amounts as specified by the Lender to be capitalised following which a corresponding portion of the outstanding Esken Funded Amounts shall be irrevocably and unconditionally terminated

and extinguished and capitalised (by the issuance of the shares referred to above); and

- (ii) procure the irrevocable and unconditional waiver and release of all Permitted Wider Group Debt Guarantees,

(the *Subordinated Debt Capitalisation and Release Right*).

- (b) The Lender shall only be entitled to exercise the Subordinated Debt Capitalisation and Release Right to the extent that it determines (acting reasonably) that such capitalisation, waiver and release are required to enable the Lender to recover the Repayment Price.

26. Changes to the Lender

26.1 Pre-Conversion transfer restrictions

- (a) The Lender may not assign any of its rights or transfer by novation any of its rights and obligations under the Finance Documents (each in whole or in part) without the prior written consent of the Borrower to any entity or individual on the Blacklist.
- (b) Subject to Clause 26.1(a), the Lender may assign any of its rights or transfer by novation any of its rights and obligations under the Finance Documents (in whole or in part) without the prior written consent of the Borrower, provided that:
 - (i) the transferee is a Lender Affiliate and the Lender has provided any such “know your customer” information and any other evidence requested by the Borrower (acting reasonably) required by the Borrower to determine that such transferee is a Lender Affiliate); and
 - (ii) an Event of Default is continuing for more than 70 days; or
 - (iii) an Event of Default has been continuing for fewer than 70 days but:
 - (A) the Lender has notified the Borrower that it will not exercise its Conversion Right pursuant to Clause 25.12(a)(i) (*Acceleration*);
 - (B) the Lender has accelerated the Loan pursuant to Clause 25.12(a)(ii) (*Acceleration*); and
 - (C) the Borrower has not repaid the Loan at the Repayment Price within 10 Business Days of the Lender notifying the Borrower of each of (A) and (B) above.
- (c) Notwithstanding Clauses 26.1(a) and 26.1(b) above, the Lender shall only be entitled to assign or transfer its rights if the transferee accedes to this Agreement (by executing an Assignment Agreement or a Transfer Certificate), the Intercreditor Agreement (by executing a Creditor Accession Undertaking, as defined in the Intercreditor Agreement), the Restrictive Covenant Side Letter and the Shareholders’ Agreement (by executing a Deed of Adherence

(as defined in the Shareholders' Agreement) and becomes subject to the same obligations as the Lender.

- (d) Subject to the Lender's rights in Clauses 26.1(a) and 26.1(b) above, if any of the following occurs in relation to the Lender (each, a **Trigger Event**):
- (i) Carlyle Investment Management L.L.C. (or its Affiliates) ceasing to be adviser and manager to the Carlyle Global Infrastructure Opportunity Fund, L.P. or such other funds which, individually or together, majority-own (directly or indirectly) the Lender (each, a **Carlyle Fund**);
 - (ii) The Carlyle Group Inc. ceasing to Control (directly or indirectly) the Lender or the Carlyle Fund;
 - (iii) Carlyle Funds ceasing to, individually or together, majority-own (directly or indirectly) the Lender;
 - (iv) an entity on the Blacklist acquiring any interest or ownership in (i) the Lender or (ii) any entity which holds an interest or ownership in the Lender and is Controlled by The Carlyle Group Inc., in each case otherwise than through being a limited partner;
 - (v) any person together with any of its Affiliates (as defined in the Shareholders' Agreement) (excluding any Affiliate of the Lender) holding an economic interest (on a look-through basis, whether held directly or indirectly) of greater than 49 per cent. of the Lender; or
 - (vi) CGIOF GP LLC, the Lender, any Lender Affiliate that has adhered to Restrictive Covenant Side Letter of the Lender or any of their Affiliates (as defined in the Restrictive Covenant Side Letter) breaches or causes a breach of the restrictions set out in the Restrictive Covenant Side Letter,

the Lender shall as soon as reasonably practicable (and in any event within 10 Business Days of the Trigger Event) notify the Borrower of the occurrence of the Trigger Event.

- (e) Immediately upon the occurrence of a Trigger Event (and while such Trigger Event is continuing):
- (i) the Borrower and Obligors' obligations under Clause 20.1 (*Information Undertakings*) and 20.4 (*Access Rights*) shall cease with immediate effect;
 - (ii) the Lender shall no longer have any participation or voting rights in relation to the Operational Committee and Strategic Committee; and
 - (iii) Notwithstanding anything to the contrary in this Agreement, the Lender's Conversion Right shall not be exercisable.
- (f) The Lender shall have 30 calendar days from notification of a Trigger Event to the Borrower to rectify the Trigger Event to the reasonable satisfaction of the Borrower (if possible).

- (g) If the Lender fails to rectify the Trigger Event in accordance with Clause 26.1(f), the Borrower shall be entitled (but not obliged) to repay the Loan in full at the Repayment Price within 90 days of the later of:
 - (i) the date on which the 30 day rectification period in Clause 26.1(f) expires; and
 - (ii) the date on which the Borrower becomes aware of the occurrence of the Trigger Event.

If the Borrower does not repay the Loan within such 90 day period, the Borrower shall be deemed to have declined its right to repay the Loan for the purpose of this Clause 26.1 and the consequences of the occurrence of the Trigger Event set out in Clause 26.1(e) shall cease to apply.

26.2 Procedure for transfer

- (a) Subject to the conditions set out in Clause 26.1 (*Pre-Conversion Transfer Restrictions*), a transfer is effected in accordance with Clause 26.2(b) below when the Existing Lender and the New Lender executes a duly completed Transfer Certificate and deliver it to the Borrower.
- (b) On the Transfer Date:
 - (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents each of the Obligors and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the ***Discharged Rights and Obligations***);
 - (ii) each of the Obligors and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;
 - (iii) the Security Agent and the New Lender shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights, and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Security Agent and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
 - (iv) the New Lender shall become a Party as a "Lender".
- (c) If:
 - (i) a Lender assigns, novates or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and

- (ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 14 (*Tax gross-up and indemnities*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under that Clause to the same extent as the Lender at the date of this Agreement or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

26.3 Procedure for assignment

- (a) Subject to the conditions set out in Clause 26.1 (*Pre-Conversion Transfer Restrictions*), an assignment may be effected in accordance with paragraph 26.3(b) below when the Existing Lender and the New Lender executes a duly completed Assignment Agreement and deliver it to the Borrower.
- (b) On the Transfer Date:
 - (i) the Existing Lender will assign absolutely to the New Lender its rights under the Finance Documents expressed to be the subject of the assignment in the Assignment Agreement;
 - (ii) the Existing Lender will be released from the obligations (the **Relevant Obligations**) expressed to be the subject of the release in the Assignment Agreement (and any corresponding obligations by which it is bound in respect of the Transaction Security); and
 - (iii) the New Lender shall become a Party as a "Lender" and will be bound by obligations equivalent to the Relevant Obligations.

27. Changes to the Obligors

27.1 Assignments and transfer by Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

27.2 Additional Guarantors

- (a) The Borrower shall ensure that each of its Subsidiaries as soon as reasonably practicable (and in any event within 20 Business Days of becoming a Subsidiary of the Borrower or, in the case of any Subsidiary which owns a Material Asset, 10 Business Days of becoming a Subsidiary of the Borrower) accedes as an Additional Guarantor to this Agreement and as a "Debtor" to the Intercreditor Agreement. That Subsidiary shall become an Additional Guarantor once:
 - (i) the Borrower delivers to the Lender a duly completed and executed Accession Letter and a duly completed and executed Intercreditor Agreement Debtor Accession Deed; and
 - (ii) the Lender has received all of the documents and other evidence listed in Part B of Schedule 2 (*Conditions precedent*) in relation to that

Additional Guarantor, each in form and substance satisfactory to the Lender.

- (b) The Lender shall notify the Borrower promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part B of Schedule 2 (*Conditions precedent*).

27.3 Repetition of Representations

Delivery of an Accession Letter constitutes confirmation by the relevant Subsidiary that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

27.4 Resignation of a Guarantor

- (a) The Borrower may request that a Guarantor (other than the Borrower) ceases to be a Guarantor by delivering to the Lender a Resignation Letter.
- (b) The Lender shall only accept a Resignation Letter and notify the Borrower of its acceptance if:
 - (i) the resignation is in connection with a disposal of a Subsidiary which is a Permitted Disposal;
 - (ii) no Default is continuing or would result from the acceptance of the Resignation Letter (and the Borrower has confirmed this is the case); and
 - (iii) the Lender has consented to the Borrower's request.

28. Conduct of business by the Lender

No provision of this Agreement will:

- (i) interfere with the right of the Lender to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (ii) oblige the Lender to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (iii) oblige the Lender to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

29. Payment mechanics

29.1 Payments to and by the Lender

- (a) On each date on which an Obligor or the Lender is required to make a payment under a Finance Document, that Obligor or the Lender shall make the same available to the Lender or that Obligor, as the case may be, (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Lender as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in such Participating Member State or London, as specified by the Lender or that Obligor, as the case may be,) with such bank as the Lender or that Obligor, as the case may be, specifies.

29.2 Distributions to an Obligor

The Lender may (with the consent of the Obligor or in accordance with Clause 30 (*Set-off*)) apply any amount payable by it to that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

29.3 Partial payments

- (a) If the Lender receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Lender shall apply that payment towards the obligations of that Obligor under the Finance Documents in any order selected by the Lender.
- (b) Paragraph (a) above will override any appropriation made by an Obligor.

29.4 No set-off by Obligors

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

29.5 Business Days

- (a) Any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

29.6 Currency of account

- (a) Subject to paragraphs (b) and (c) below, sterling is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than sterling shall be paid in that other currency.

29.7 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

- (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Lender (after consultation with the Borrower); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Lender (acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Lender (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Market and otherwise to reflect the change in currency.

30. Set-off

The Lender may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

31. Notices

31.1 Communications in writing

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

31.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Borrower, that identified with its name below;
- (b) in the case of any other Obligor, that notified in writing to the Lender on or prior to the date on which it becomes a Party; and
- (c) in the case of the Lender, that identified with its name below,

or any substitute address and fax number or department or officer as the Party may notify to the other Parties by not less than five Business Days' notice.

31.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it

at that address and, if a particular department or officer is specified as part of its address details provided under Clause 31.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).
- (c) Any communication or document made or delivered to the Borrower in accordance with this Clause will be deemed to have been made or delivered to each of the Obligors.
- (d) Any communication or document which becomes effective in accordance with paragraphs (a) to (c) above, after 5.00pm in the place of receipt shall be deemed only to become effective on the following day.

31.4 Electronic Communication

- (a) Any communication to be made between the Lender and the Borrower under or in connection with the Finance Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if the Lender and the Borrower:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
 - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (iii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above made between the Lender and the Borrower will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by the Borrower to the Lender only if it is addressed in such a manner as the Lender shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5:00pm in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (d) Any reference in a Finance Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 31.4.

31.5 English language

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Lender, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

32. Calculations and certificates

32.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by the Lender are *prima facie* evidence of the matters to which they relate.

32.2 Certificates and determinations

Any certification or determination by the Lender of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

32.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

33. Partial invalidity

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

34. Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under a Finance Document shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any Finance Document on the part of the Lender shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

35. Amendments and waivers

- (a) Any term of the Finance Documents may be amended or waived only with the consent of the Lender and the Borrower and any such amendment or waiver will be binding on all Parties.
- (b) In accordance with Clause 1.5 (*Obliger's Agent*), the Borrower may effect, on behalf of any Obligor, any amendment or waiver permitted by this Clause.

36. Confidential information

36.1 Confidentiality

The Lender agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 36.2 (*Disclosure of Confidential Information*) and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

36.2 Disclosure of Confidential Information

Subject at all times to the provisions and restrictions set out in Clause 11.5 (*Marketing*), the Lender may disclose:

- (a) to any Lender Affiliate and any of its or their Representatives, such Confidential Information as the Lender shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to certain members of the CGI investment committee and other committees who may also be members of the investment and/or committees for other Carlyle funds provided that: (i) any information relating to the Borrower or the Borrower Group is shared strictly for the purposes of managing and/or advising CGI on the transactions contemplated by the Finance Documents; and (ii) the Lender ensures that appropriate information sharing arrangements such as information barriers are otherwise maintained;
- (c) to any person:
 - (i) to whom it assigns or transfers (or may potentially assign or transfer) all of its rights and/or obligations under the Finance Documents to the extent permitted to do so by the terms thereof, and to any of that person's affiliates (or Lender Affiliates if applicable), Representatives and professional advisers;
 - (ii) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation;

- (iii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (iv) who is a Party; or
- (v) with the consent of the Borrower;

in each case, such Confidential Information as the Lender shall consider appropriate if:

- (A) in relation to paragraph (c)(i) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
- (B) in relation to paragraphs (c)(ii) and (c)(iii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of the Lender, it is not practicable so to do in the circumstances; and
- (C) as otherwise permitted pursuant to the Shareholders Agreement.

36.3 Entire agreement

This Clause 36 constitutes the entire agreement between the Parties in relation to the obligations of the Lender under the Finance Documents regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

36.4 Inside information

The Lender acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and the Lender undertakes not to use any Confidential Information for any unlawful purpose.

36.5 Notification of disclosure

The Lender, Borrower and/or Obligor agrees (as applicable and to the extent permitted by law and regulation) to inform the Borrower or Lender (as applicable):

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to Clause 36.2(c)(ii) (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that

paragraph during the ordinary course of its supervisory or regulatory function;
and

- (b) upon becoming aware that Confidential Information has been, disclosed in breach of this Clause 36.

36.6 Continuing obligations

The obligations in this Clause 36 are continuing and, in particular, shall survive and remain binding on the parties for a period of twelve months from the earlier of:

- (a) the date on which all amounts payable by the Obligors under or in connection with this Agreement have been paid in full or the Loan has been converted or otherwise repaid: and
- (b) the date on which the applicable Lender, Borrower or Obligor otherwise ceases to be a Party.

37. Counterparts

Each Finance Document may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of a Finance Document by e-mail attachment or telecopy shall be an effective mode of delivery.

38. Governing law

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

39. Enforcement

39.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including, without limitation, a dispute regarding the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a *Dispute*).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Notwithstanding paragraph (a) above, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

39.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):

- (a) irrevocably appoints the Borrower as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

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

Schedule 1
The Original Obligors

Borrower	Registered number (or equivalent, if any)
London Southend Airport Company Limited	02881745
Original Guarantors	Registered number (or equivalent, if any)
London Southend Airport Company Limited	02881745
Thames Gateway Airport Limited	05022155
Stobart Solar Limited	09225106
Stobart Jet Centre Limited	10841425

Schedule 2
Conditions precedent

Part A Conditions precedent To Utilisation

1. **Original Obligors**

- (a) A copy of the constitutional documents of each Original Obligor and Stobart Aviation Limited in its capacities as the Esken Shareholder, the Pari Passu Lender and the Subordinated Creditor (together, the *Relevant Persons*).
- (b) A copy of a resolution of the board of directors of each Relevant Person:
 - (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;
 - (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf; and
 - (iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above.
- (d) A certificate of the Borrower (signed by a director) confirming that borrowing or guaranteeing, as appropriate, the Loan would not cause any borrowing, guaranteeing or similar limit binding on any Original Obligor to be exceeded.
- (e) A certificate of an authorised signatory of each Relevant Person certifying that each copy document relating to it specified in this Part A of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the Closing Date.

2. **Legal opinions**

A legal opinion of Linklaters LLP, legal advisers to the Lender in England.

3. **Other documents and evidence**

- (a) A Utilisation Request in respect of the Loan.
- (b) An executed copy of the Shareholders Agreement dated the Closing Date.
- (c) An executed copy of the Pari Passu Loan dated the Closing Date.
- (d) An executed copy of the Transaction Security Document dated the Closing Date.
- (e) An executed copy of the Intercreditor Agreement dated the Closing Date.
- (f) An executed copy of the Implementation Agreement dated the date of this Agreement.
- (g) An executed copy of the Indemnity Deed dated the Closing Date.

- (h) An executed copy of the Restrictive Covenant Side Letter dated the Closing Date.
- (i) Initial Business Plan.
- (j) Annual Budget.
- (k) Evidence that the proposed reorganisation (the **Reorganisation**) of the Borrower Group has been completed in the manner as agreed by the Borrower and the Lender, and in accordance with the PWC Steps Paper.
- (l) One or more RNS announcements from Esken Limited on or before the Closing Date which, together, confirm that:
 - (i) the Wider Group has obtained at least £60 million of committed funding, of which:
 - (A) at least £40 million has been raised by way of an equity raise (the **Equity Raise**); and
 - (B) no more than £20 million has been made available by one or more:
 - (I) reputable financial institutions; or
 - (II) reputable alternative capital providers which are satisfactory to the Lender (acting reasonably),
 in each case, pursuant to a committed loan facility, having a final maturity of not earlier than 18 months from the date on which such facility is signed (the **RCF**);
 - (ii) the Equity Raise has completed; and
 - (iii) the RCF has been entered into, all initial conditions precedent have been satisfied, and is available to the Wider Group subject to satisfaction of further customary conditions precedent to utilisation.
- (m) PWC Steps Paper (with a reliance letter in favour of (i) the Lender and (ii) the Borrower on behalf of itself and each member of the Borrower Group).
- (n) An executed copy of the deed of release (in the form agreed by the Lender) dated the Closing Date and effective upon repayment of the Existing Facility in respect of all existing security other than Permitted Security granted by the Obligors.
- (o) An executed copy of the irrevocable and exclusive licence from Stobart Group Brands LLC to the Borrower in respect of the LSA Brand.
- (p) An executed copy of the underwriting agreement in connection with Esken's proposed Equity Raise (the **Underwriting Agreement**) which has not been terminated or amended on or before the Closing Date (including, for the avoidance of doubt, no amendment in the amount being placed which must be at least £40 million).
- (q) A certificate of the Borrower (signed by a director) confirming that the Underwriting Agreement has not been terminated or amended on or before the Closing Date.

- (r) To the extent the Wider Group agrees a bank facility in accordance with paragraph (l) above, an executed copy of a facility agreement (the **Facility Agreement**) which has a minimum term of 18 months and a committed facility amount of not more than £20 million.
- (s) Evidence of the approval of the transaction contemplated by this Agreement by the shareholders of Esken Limited.
- (t) Evidence that any process agent referred to in Clause 39.2 (*Service of process*), if not an Original Obligor, has accepted its appointment.
- (u) A copy of any other Authorisation or other document, opinion or assurance which the Lender considers to be necessary or desirable (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.
- (v) The Original Financial Statements of each Original Obligor.
- (w) Evidence that the fees, costs and expenses then due from the Borrower pursuant to Clause 13.1 (*Security Agent Fees*) have, been paid or will be paid by the Utilisation Date.
- (x) All amounts due in respect of the Commitment Fee have been paid to the Lender in full or will be paid by way of a deduction from the amount to be advanced by the Lender on the Closing Date to the Borrower.
- (y) A cashflow statement for the period beginning on 1 March 2021 and ending on the Business Day immediately before the Closing Date (the **Cashflow Period**) demonstrating that:
 - (i) the Wider Group has, either by way of equity or intercompany loan, funded the Borrower Group in respect of all of the amounts otherwise payable by the Borrower Group (to any person outside the Borrower Group) during the Cashflow Period (**Wider Group Working Capital Funding**); and
 - (ii) the minimum amount of Wider Group Working Capital Funding over the Cashflow Period is £5,000,000.

Part B Conditions precedent required to be delivered by an Additional Obligor

1. An Accession Letter (and a related Debtor Accession Deed, as defined in the Intercreditor Agreement), in each case, duly executed by the Additional Obligor and the Borrower.
2. A copy of the constitutional documents of the Additional Obligor.
3. A copy of a resolution of the board of directors of the Additional Obligor:
 - (a) approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents and resolving that it execute the Accession Letter;
 - (b) authorising a specified person or persons to execute the Accession Letter on its behalf; and
 - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents.
4. A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
5. A certificate of the Additional Obligor (signed by a director) confirming that borrowing or guaranteeing, as appropriate, the Loan would not cause any borrowing, guaranteeing or similar limit binding on it to be exceeded.
6. A certificate of an authorised signatory of the Additional Obligor certifying that each copy document listed in this Part B of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter.
7. A copy of any other Authorisation or other document, opinion or assurance which the Lender considers to be necessary or desirable in connection with the entry into and performance of the transactions contemplated by the Accession Letter or for the validity and enforceability of any Finance Document.
8. If available, the latest audited financial statements of the Additional Obligor.
9. A legal opinion of Linklaters LLP, legal advisers to the Lender in England.
10. If the Additional Obligor is incorporated in a jurisdiction other than England and Wales, a legal opinion of the legal advisers to the Lender in the jurisdiction in which the Additional Obligor is incorporated.
11. If the proposed Additional Obligor is incorporated in a jurisdiction other than England and Wales, evidence that the process agent specified in Clause 39.2 (*Service of process*), if not an Obligor, has accepted its appointment in relation to the proposed Additional Obligor.

**Schedule 3
Utilisation Request**

From: **London Southend Airport Company Limited** as Borrower

To: **CGIOF RIVER S.À R.L.** as Lender

Dated:

Dear Sirs

London Southend Airport Company Limited – £125 million Facility Agreement dated [●] 2021 (the Agreement)

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

Proposed Utilisation Date:	[●] (or, if that is not a Business Day, the next Business Day)
Amount:	£125 million (net advance of £120 million post-transaction costs).
3. The proceeds of this Loan should be credited to [*account*].
4. This Utilisation Request is irrevocable.

Yours faithfully

.....
authorised signatory for
[*name of relevant Borrower*]

Schedule 4
Underperformance Trigger Events

Part A PAX Underperformance Trigger Events

PAX (LTM) (mm)		
Underperformance Test Date	Band 1 UTE	Band 2 UTE
31/08/2022	0.74	N/A
28/02/2023	1.13	N/A
31/08/2023	1.36	N/A
29/02/2024	1.56	1.30
31/08/2024	1.80	1.50
29/02/2025	2.01	1.68
31/08/2025	2.23	1.86
28/02/2026	2.42	2.01
31/08/2026	2.91	2.42
28/02/2027	3.33	2.78
31/08/2027	3.53	2.94
29/02/2028	3.70	3.08

Part B Adjusted EBITDA Underperformance Trigger Events

Adjusted EBITDA (LTM) (000's of £)		
Underperformance Test Date	Band 1 UTE	Band 2 UTE
31/08/2022	(£1,813.2)	N/A
28/02/2023	£1,047.2	N/A
31/08/2023	£2,643.5	N/A
29/02/2024	£4,014.4	£3,345.3
31/08/2024	£6,001.6	£5,001.4
28/02/2025	£7,714.8	£6,429.0

31/08/2025	£10,560.9	£8,800.8
28/02/2026	£13,013.7	£10,844.8
31/08/2026	£16,789.7	£13,991.4
28/02/2027	£20,043.9	£16,703.2
31/08/2027	£22,537.0	£18,780.9
29/02/2028	£24,685.7	£20,571.4

Part C Cure Period

PAX UTE	Adjusted EBITDA UTE	Cure Period
Occurrence of a Band 1 PAX UTE only	No Adjusted EBITDA UTE	12 months, which shall be extended by six months <i>provided that</i> : (a) the Borrower is diligently progressing a cure; and (b) no Adjusted EBITDA UTE occurs on any relevant Underperformance Test Date.
Occurrence of a Band 1 PAX UTE only	Occurrence of a Band 1 Adjusted EBITDA UTE only	6 months, unless there is a Market Driven PAX Trigger Event in which case the cure period shall be extended by six months <i>provided that</i> : (c) the Borrower is diligently progressing a cure; and (d) no Band 2 Adjusted EBITDA UTE occurs on any relevant Underperformance Test Date.
No PAX UTE	Occurrence of a Band 1 Adjusted EBITDA UTE only	6 months
Occurrence of a Band 2 PAX UTE	No Band 2 Adjusted EBITDA UTE	6 months, unless there is a Market Driven PAX Trigger Event in which case the cure period shall be extended by six months <i>provided that</i> :

PAX UTE	Adjusted EBITDA UTE	Cure Period
		(a) the Borrower is diligently progressing a cure; and (b) no Band 2 Adjusted EBITDA UTE occurs on any relevant Underperformance Test Date.
N/A	Occurrence of a Band 2 Adjusted EBITDA UTE	6 months

Schedule 5
Form of Transfer Certificate

To: London Southend Airport Company Limited as Borrower

From: [*The Existing Lender*] (the "**Existing Lender**") and [*The New Lender*] (the "**New Lender**")

Dated:

**London Southend Airport Company Limited – £125 million Facility Agreement dated
[•] 2021 (the Agreement)**

1. We refer to the Agreement. This is a Transfer Certificate. Terms defined in the Agreement have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
2. We refer to Clause 26.2 (*Procedure for transfer*) of the Agreement:
 - (a) The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 26.2 (*Procedure for transfer*) of the Agreement, all of the Existing Lender's rights and obligations under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Loan and participations in Utilisations under the Agreement as specified in the Schedule.
 - (b) The proposed Transfer Date is [].
 - (c) The address, fax number and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) of the Agreement are set out in the Schedule.
3. The New Lender confirms, for the benefit of the Borrower, that it is:
 - (a) [a Qualifying Lender (other than a Treaty Lender);]
 - (b) [a Treaty Lender;]
 - (c) [not a Qualifying Lender].
6. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
7. This Transfer Certificate and any non-contractual obligations arising out of or in connection with it are governed by English law.
8. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

THE SCHEDULE

Loan/rights and obligations to be transferred

[Insert relevant details]

[address, fax number and attention details for notices and account details for payments,]

[Existing Lender]

[New Lender]

By:

By:

This Transfer Certificate is accepted by the Borrower and the Transfer Date is confirmed as [].

[Borrower]

By:

Schedule 6
Form of Assignment Agreement

To: London Southend Airport Company Limited as Borrower, for and on behalf of each Obligor

From: [the *Existing Lender*] (the "**Existing Lender**") and [the *New Lender*] (the "**New Lender**")

Dated:

London Southend Airport Company Limited - £125 million Facility Agreement dated [●] 2021 (the "Agreement")

1. We refer to the Agreement. This is an Assignment Agreement. Terms defined in the Agreement have the same meaning in this Assignment Agreement unless given a different meaning in this Assignment Agreement.
2. We refer to Clause 26.3 (*Procedure for assignment*) of the Agreement:
 - (a) The Existing Lender assigns absolutely to the New Lender all the rights of the Existing Lender under the Agreement and the other Finance Documents which relate to that portion of the Existing Lender's Loan and participations in Utilisations under the Agreement as specified in the Schedule.
 - (b) The Existing Lender is released from all the obligations of the Existing Lender which correspond to that portion of the Existing Lender's Loan and participations in Utilisations under the Agreement specified in the Schedule.
 - (c) The New Lender becomes a Party as a Lender and is bound by obligations equivalent to those from which the Existing Lender is released under paragraph (b) above.
3. The proposed Transfer Date is [].
4. On the Transfer Date the New Lender becomes Party to the Finance Documents as a Lender.
5. The address, fax number and attention details for notices of the New Lender for the purposes of Clause 31.2 (*Addresses*) of the Agreement are set out in the Schedule.
6. The New Lender confirms, for the benefit of the Agent and without liability to any Obligor, that it is:
 - (a) [a Qualifying Lender (other than a Treaty Lender);]
 - (b) [a Treaty Lender;]
 - (c) [not a Qualifying Lender].
7. This Assignment Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Assignment Agreement.

8. This Assignment Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
9. This Assignment Agreement has been entered into on the date stated at the beginning of this Assignment Agreement.

THE SCHEDULE

Rights to be assigned and obligations to be released and undertaken

[Insert relevant details]

[address, fax number and attention details for notices and account details for payments]

[Existing Lender]

[New Lender]

By:

By:

This Assignment Agreement is accepted by the Borrower and the Transfer Date is confirmed as [].

Signature of this Assignment Agreement by the Borrower constitutes confirmation by the Agent of receipt of notice of the assignment referred to herein, which notice the Borrower receives on behalf of each Finance Party.

[Borrower]

By:

Schedule 7
Form of Accession Letter

To: **CGIOF RIVER S.À R.L.** as Lender

From: [Subsidiary] and **London Southend Airport Company Limited**

Dated:

Dear Sirs

London Southend Airport Company Limited – £125 million Facility Agreement dated [●] (the Agreement)

1. We refer to the Agreement. This is an Accession Letter. Terms defined in the Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.
2. [Subsidiary] agrees to become an Additional Guarantor and to be bound by the terms of the Agreement as an Additional Guarantor pursuant to Clause 27.2 (*Additional Guarantors*) of the Agreement. [*Subsidiary*] is a company duly incorporated under the laws of [*name of relevant jurisdiction*].
3. [*Subsidiary's*] administrative details are as follows:
Address:

Fax No:

Attention:
4. This Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[This Accession Letter is entered into by deed.]

London Southend Airport Company Limited [Subsidiary]

Schedule 8
Form of Resignation Letter

To: **CGIOF RIVER S.À R.L.** as Lender

From: [*resigning Obligor*] and **London Southend Airport Company Limited**

Dated:

Dear Sirs

London Southend Airport Company Limited – £125 million Facility Agreement dated [●] (the Agreement)

1. We refer to the Agreement. This is a Resignation Letter. Terms defined in the Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
2. Pursuant to Clause 27.4 (*Resignation of a Guarantor*) of the Agreement, we request that [*resigning Obligor*] be released from its obligations as a Guarantor under the Agreement.
3. We confirm that no Default is continuing or would result from the acceptance of this request.
4. This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

London Southend Airport Company Limited [Subsidiary]

By:

By:

Schedule 9
Asset-Financing Arrangements

London Southend Airport Company Limited
Hire purchase

Contract No	Lender	Description of asset	End date	Initial balance	Outstanding bal
					May-21
1	Siemens	Radar	01/02/2023	1,807,742.00	399,421.29
258315	HSBC Equipment Finance (UK) Limited	Rhode Schwarz Scanner	01/10/2022	150,926.09	45,585.58
258324	HSBC Equipment Finance (UK) Limited	Automatic SmartLanes 1&2	01/10/2022	223,616.00	67,540.86
260035	HSBC Equipment Finance (UK) Limited	Automatic SmartLanes 3&4	01/01/2023	176,721.97	62,706.82
259460	HSBC Equipment Finance (UK) Limited	Rapiscan DE-tector	01/01/2023	136,425.00	48,455.62
260767	HSBC Equipment Finance (UK) Limited	Aviramp Continental & Regional	01/02/2023	80,600.00	29,969.07
266295	HSBC Equipment Finance (UK) Limited	Cubic Barcode & ITSO Rail Station	01/10/2021	281,489.00	41,477.05
267741	HSBC Equipment Finance (UK) Limited	Ex-Demo Oshkosh Striker Fire Engine	01/11/2025	666,341.34	452,243.13
267854	HSBC Equipment Finance (UK) Limited	Ground power unit / Illuminated stop sign	01/02/2024	88,404.39	51,203.64
264874	HSBC Equipment Finance (UK) Limited	Lighting Towers	01/07/2023	26,609.05	14,449.13
266991	HSBC Equipment Finance (UK) Limited	Aircraft Refuller	01/09/2022	196,803.74	84,623.65
268833	HSBC Equipment Finance (UK) Limited	Refuelling Platform	01/11/2025	41,268.75	28,083.51
278121	HSBC Equipment Finance (UK) Limited	Ambulift	01/09/2026	101,260.00	80,626.28
273037	HSBC Equipment Finance (UK) Limited	Fire Station	01/09/2026	234,765.55	104,725.64
274646	HSBC Equipment Finance (UK) Limited	Car Park System	01/10/2024	441,752.00	315,867.55
280977	HSBC Equipment Finance (UK) Limited	Short Stay Car Park Extension	01/10/2024	86,356.00	63,686.69
269816	HSBC Equipment Finance (UK) Limited	Baggage Screening	01/12/2026	1,176,988.60	977,310.45
A17402	Barclays	Barracuda Fire Engine	01/06/2022	20,693.28	8,659.63
282810	HSBC Equipment Finance (UK) Limited	X-ray machines	01/03/2025	177,600.00	115,218.56
281479	HSBC Equipment Finance (UK) Limited	Ionscan 600 & Insight 200M LED System	01/04/2025	96,948.00	77,037.57
284664	HSBC Equipment Finance (UK) Limited	E-gates	01/04/2025	36,619.00	29,750.43
285401	HSBC Equipment Finance (UK) Limited	Ryanair Wernick Building	01/05/2027	180,985.15	158,432.88
284750	HSBC Equipment Finance (UK) Limited	Runway Seeding Equipment	01/05/2025	41,242.75	34,190.57
284888	HSBC Equipment Finance (UK) Limited	Roller Deck Caster System	01/06/2027	87,495.00	78,847.58
286704	HSBC Equipment Finance (UK) Limited	Filter Preparation System	01/06/2023	79,415.00	57,005.80
286804	HSBC Equipment Finance (UK) Limited	Mitsubishi L200 Diesel Double Cab	01/08/2022	20,600.00	13,192.83
286649	HSBC Equipment Finance (UK) Limited	Nuctech CX180180 200KV X-Ray Machine	01/08/2025	110,000.00	96,397.58
283334	HSBC Equipment Finance (UK) Limited	Modular Dock Scheme	01/03/2027	278,289.00	254,101.73
287238	HSBC Equipment Finance (UK) Limited	Carmichael Cobra 2	01/11/2023	137,600.66	117,509.26
					3,908,320.38

Stobart Executive Jet Centre Limited
Hire purchase

Lender	Description of asset	End date	Initial bal	Current month
				Outstanding bal
HSBC Equipment Finance (UK) Limited	Jet Centre Equipment	01/06/2022	23,399.99	12,842.75
HSBC Equipment Finance (UK) Limited	MOTOTOK TWIN 7500 NG	01/08/2026	70,157.53	60,610.59
				73,453.34

Schedule 10
NDA principles

1. Confidential Information shall be kept confidential, save if and to the extent that:
 - (a) any disclosure of information is expressly consented to in writing by each of the Borrower and the Lender prior to such disclosure being made (or, if the information only relates to one Party, such disclosure is expressly consented to in writing by such Party);
 - (b) any disclosure is made in confidence by a potential transferee to that potential transferee's representatives (as defined below) on a "need to know" basis where the recipient, in the reasonable opinion of the potential transferee, requires access to the information for a purpose reasonably incidental to that potential transferee's evaluation of a potential acquisition of the relevant Shareholder Instruments;
 - (c) any disclosure of information is required by law or by any stock exchange or Governmental Authority. If this paragraph (c) applies, the party making the disclosure shall as far as practicable and lawful to do so:
 - (i) first consult with the Borrower to give it an opportunity to contest the disclosure;
 - (ii) take into account reasonable requirements of the Borrower about the proposed form, timing, nature and extent of the disclosure; and
 - (iii) disclose only the minimum amount of Confidential Information that is required to be disclosed and use reasonable endeavours to assist the Borrower in respect of any reasonable action that they may take to resist or limit such disclosure;
 - (d) any disclosure relates to information which was or becomes lawfully in the possession of the proposed transferee or any of its representatives (in either case as evidenced by written records) without any obligation of secrecy prior to it being received or held; or
 - (e) any disclosure relates to information which has previously become publicly available other than through that the proposed transferee's fault (or that of its representatives);
2. The recipient must ensure its representatives comply with the terms set out in the confidentiality undertaking unless a separate confidentiality undertaking in favour of the Borrower Group and consistent with this Schedule has been entered into by that representative. For this purpose, **representatives** means: (i) affiliates of the recipient, (ii) finance providers, (iii) providers and brokers of warranty and indemnity insurance, and (iv) any director, officer, partner, employee, agent, consultant and professional adviser of the recipient or the persons referred to in (i), (ii) or (iii);
3. Confidential Information shall be returned or destroyed on request, save if and to the extent:

- (a) required by applicable law, rule or requirement of any regulatory or Governmental Authority or the rules of a professional body, or for bona fide internal compliance or audit policies and procedures; or
 - (b) contained in any electronic file created pursuant to any pre-existing routine backup or archiving procedure so long as such electronic file is not generally accessible beyond the need for disaster recovery or similar;
- 4. No warranty shall be provided that the Confidential Information is accurate, reliable or complete.
- 5. The confidentiality undertaking shall be given in favour of, and be enforceable by the Borrower and each member of the Borrower Group, and the Borrower shall be a party to the confidential undertaking.
- 6. The confidentiality undertaking shall be for a term of no less than two years.
- 7. Non-solicitation of Senior Employees for a term of no less than two years.
- 8. No contact with the Borrower Group or senior management (save as otherwise provided for in Clause 11.5 (*Marketing*)), or (otherwise than in ordinary course dealings not related to a potential transfer or assignment of the Loan) suppliers or customers.
- 9. The confidentiality undertaking shall be governed by English law.
- 10. Copies of each executed confidentiality undertaking shall be provided to the Borrower, the Esken Shareholder and the Lender within 2 Business Days of execution.

Schedule 11
Investment principles

Relevant Projects	Planning Start	Construction Start	PAX at Construction Start (m)	Approximate Projects Value (Real 2020 m)
Relevant Projects 1*	FY22	FY25	Equal to or greater than 2.2	£45
Relevant Projects 2	FY22	FY28	Equal to or greater than 4.1	£30
Relevant Projects 2	FY25	FY32	Equal to or greater than 8.9	£193

*£250,000 of pre-construction works in FY24

Signature Pages

Esken Shareholder

EXECUTED
by **STOBART AVIATION LIMITED**
acting by two directors

) *Lewis Girdwood*
)
)

Address: Third Floor, 15 Stratford Place,
London, England
W1C 1BE

Nick Dilworth

Borrower

EXECUTED
by **LONDON SOUTHEND**
AIRPORT COMPANY LIMITED
acting by two directors

) *Lewis Girdwood*
)
)
) *Mark Dilworth*

Address: Third Floor, 15 Stratford Place,
London, England
W1C 1BE

Guarantors

EXECUTED

by **THAMES GATEWAY**

AIRPORT LIMITED

acting by two directors

) *Lewis Girdwood*

)

)

)

Mark Dilworth

Address: Third Floor, 15 Stratford Place,
London, England
W1C 1BE

EXECUTED
by **STOBART SOLAR**
LIMITED
acting by two directors

) *Lewis Girdwood*
)
)
) *Nick Dilworth*

Address: Third Floor, 15 Stratford Place,
London, England
W1C 1BE

EXECUTED
by **STOBART JET CENTRE**
LIMITED
acting by two directors

) *Lewis Girdwood*
)
)
) *Nick Dilworth*

Address: Third Floor, 15 Stratford Place,
London, England
W1C 1BE

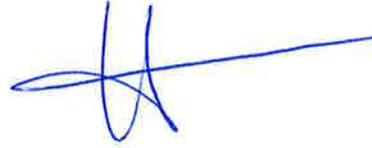
Lender

EXECUTED

by **CGIOF RIVER S.À R.L**

acting by its director/authorised signatory

)
)
)



Address: 2, avenue Charles de Gaulle, 4th floor,
L-1653 Luxembourg

Email: ~~William.cagney@carlyle.com~~

For the attention of the board of managers

fannykindler@carlyle.com