

£50,000,000

Facility agreement

Dated 6 December 2022

for

DIGNITY PLC

as Borrower

with

PHOENIX UK FUND LTD

acting as Lender

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THIS AGREEMENT is dated 6 December 2022 and made between:

- (1) **DIGNITY PLC** (the "**Company**") and as borrower (the "**Borrower**"); and
- (2) **PHOENIX UK FUND LTD.** as lender (the "**Lender**").

IT IS AGREED as follows:

SECTION 1 INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Accounting Principles**" means generally accepted accounting principles in England, including IFRS.

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

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Availability Period**" means the period from and including the date of this Agreement to and including the date which is 12 Months after the date of this Agreement.

"**Available Commitment**" means the Lender's Commitment minus:

- (a) the Base Currency Amount of any outstanding Loans; and
- (b) in relation to any proposed Utilisation, the Base Currency Amount of any Loans that are due to be made on or before the proposed Utilisation Date.

"**Base Currency**" means sterling.

"**Base Currency Amount**" means, in relation to a Loan, the amount specified in the Utilisation Request delivered by the Borrower for that Loan as adjusted to reflect any repayment (other than a repayment arising from a change of currency), prepayment, consolidation or division of a Loan.

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

"**Change of Control**" means the occurrence of an event whereby any person or any persons acting in concert (as defined in the City Code on Takeovers and Mergers), other than a holding company (as defined in Section 1159 of the Companies Act 2006 as amended) whose shareholders are or are to be substantially similar to the pre-existing shareholders of the Borrower, shall become interested (within the meaning of Part 22 of the Companies Act 2006 as amended) in (A) more than 50 per cent. of the issued or allotted ordinary share capital of the Borrower or (B) shares in the capital of the Borrower carrying more than 50 per cent. of the voting rights normally exercisable at a general meeting of the Borrower.

"Commitment" means £50,000,000 to the extent not cancelled, reduced or transferred by the Lender under this Agreement.

"Confidential Information" means all information relating to the Company, the Group this Agreement 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 a Lender under this Agreement or the Facility from either:

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

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

- (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 26 (*Confidential Information*);
 - (B) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or
 - (C) is known by the Lender before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by the Lender after that date, from a source which is, as far as the Lender is aware, unconnected with the Group and which, in either case, as far as the Lender is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

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

"Default" means an Event of Default or any event or circumstance specified in Clause 14 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under this Agreement or any combination of any of the foregoing) be an Event of Default.

"Disruption Event" means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by this Agreement to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or
- (b) the occurrence of any other event which results in a disruption (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 this Agreement; or

- (ii) from communicating with other Parties in accordance with the terms of this Agreement,

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

"Event of Default" means any event or circumstance specified as such in Clause 14 (*Events of Default*).

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

"Facility Office" means the office or offices notified by the Lender to the Borrower in writing as the office or offices through which it will perform its obligations under this Agreement.

"Finance Lease" means any lease or hire purchase contract, a liability under which would, in accordance with the Accounting Principles, be treated as a balance sheet liability.

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

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) 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 Finance Leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of an entity which is not a member of the Group which liability would fall within one of the other paragraphs of this definition;
- (h) any amount raised by the issue of shares which are redeemable (other than at the option of the issuer) before the Termination Date or are otherwise classified as borrowings under the Accounting Principles;
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 10 days after the date of supply;
- (j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing; and

(k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above

"First Utilisation Date" means the date specified as the Utilisation Date in the first Utilisation Request submitted after the date of this Agreement.

"Group" means the Borrower and its Subsidiaries from time to time.

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

"Interest Period" means, in relation to a Loan, each period determined in accordance with Clause 9 (*Interest Periods*).

"Interest Rate" means seven per cent..

"LMA" means the Loan Market Association.

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

"Material Adverse Effect" means a material adverse effect on or material adverse change in:

- (a) the financial condition of the Borrower, such that the Borrower would be unable to meet its payment obligations under this Agreement as they fall due;
- (b) the ability of the Borrower to perform and comply with its obligations under this Agreement;
or
- (c) the validity, legality or enforceability of this Agreement.

"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) 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.

The above rules will only apply to the last Month of any period.

"New Lender" has the meaning given to that term in Clause 15 (*Changes to the Lender*).

"Party" means a party to this Agreement.

"Related Fund" in relation to a fund (the **"first fund"**), means a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

"Relevant Market" means the London interbank market.

"Repeating Representations" means each of the representations set out in Clauses 11.1 (*Status*) to 11.4 (*Power and authority*), 11.6 (*Governing law and enforcement*), 11.8 (*No default*) and 11.12 (*No proceedings pending or threatened*).

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

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

"Selection Notice" means a notice substantially in the form set out in Part II of Schedule 2 (*Requests*) given in accordance with Clause 9 (*Interest Periods*).

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

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

"Termination Date" means (i) the date which is three years after the date of the first Utilisation Request or (ii) such other date as is agreed between the Lender and the Borrower in writing.

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

"Unpaid Sum" means any sum due and payable but unpaid by the Borrower under this Agreement. **"Utilisation"** means a utilisation of the Facility.

"Utilisation Date" means the date of a Utilisation, being the date on which the relevant Loan is to be made.

"Utilisation Request" means a notice substantially in the form set out in Part I of Schedule 2 (*Requests*).

1.2 Construction

(a) Unless a contrary indication appears, any reference in this Agreement to:

- (i) the **"Lender"**, or any **"Party"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under this Agreement;
- (ii) **"assets"** includes present and future properties, revenues and rights of every description;
- (iii) **"this Agreement"** is a reference to this Agreement or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced and includes any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under this Agreement or other agreement or instrument;
- (iv) **"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;
- (v) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (vi) 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;

(vii) a provision of law is a reference to that provision as amended or re-enacted from time to time; and

(viii) 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) Section, Clause and Schedule headings are for ease of reference only.

(d) 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 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 has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

SECTION 2
THE FACILITY

2. THE FACILITY

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

3. PURPOSE

3.1 Purpose

The Borrower shall apply all amounts borrowed by it under the Facility towards the provision of equity support to its whole business securitisation through share subscription and/or subordinated debt.

3.2 Monitoring

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

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

The Borrower may not deliver a Utilisation Request unless the Lender has received all of the documents and other evidence listed in Schedule 1 (*Conditions precedent*) in form and substance satisfactory to the Lender. The Lender shall notify the Borrower promptly upon, and in any event within five Business Days of, being so satisfied.

4.2 Further conditions precedent

The Lender will only be obliged to comply with Clause 5.4 (*Availability of Loans*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (i) no Default is continuing or would result from the proposed Loan; and
- (ii) the Repeating Representations to be made by the Borrower are true in all material respects.

4.3 Maximum number of Loans

- (a) The Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation more than five Loans would be outstanding.
- (b) The Borrower may not request that a Loan be divided if, as a result of the proposed division, more than five Loans would be outstanding.

SECTION 3
UTILISATION

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Borrower may utilise the Facility by delivery to the Lender of a duly completed Utilisation Request substantially in the form set out in Part II of Schedule 2 (*Requests*):

- (a) In respect of the First Utilisation Date, provided that the amount of the Utilisation does not exceed £15,000,000, not later than 10:00 a.m. seven days before the First Utilisation Date; and
- (b) In respect of each Utilisation Date following the First Utilisation Date, or where the amount of the Utilisation on the First Utilisation Date exceeds £15,000,000, not later than 10:00 a.m. thirty days before the Utilisation Date.

5.2 Completion of a Utilisation Request

- (a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
 - (i) the proposed Utilisation Date is a Business Day within the Availability Period;
 - (ii) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*);
 - (iii) the proposed Interest Period complies with Clause 9 (*Interest Periods*); and
 - (iv) it specifies the account and bank (which must be in the principal financial centre of the country of the currency of the Utilisation) to which the proceeds of the Utilisation are to be credited.
- (b) Only one Loan may be requested in each Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be the Base Currency.
- (b) The amount of the proposed Loan must be:
 - (i) if the currency selected is the Base Currency, a minimum of £10,000,000 or, if less, the Available Commitment; and
 - (ii) in any event such that its Base Currency Amount is less than or equal to the Available Commitment.

5.4 Availability of Loans

If the conditions set out in this Agreement have been met, the Lender shall make each Loan available by the Utilisation Date through its Facility Office.

5.5 Cancellation of Commitment

The Commitment which, at that time, is not utilised shall be immediately cancelled at the end of the Availability Period.

SECTION 4

REPAYMENT, PREPAYMENT AND CANCELLATION

6. REPAYMENT

6.1 Repayment of Loans

The Borrower shall repay each Loan on the Termination Date.

6.2 Reborrowing

The Borrower may not reborrow any part of the Facility which is repaid.

7. PREPAYMENT AND CANCELLATION

7.1 Change of control

Upon the occurrence of a Change of Control:

- (a) the Company shall promptly notify the Lender upon becoming aware of that event;
- (b) the Lender shall not be obliged to fund a Utilisation; and
- (c) the Lender may, by not less than 10 days' notice to the Company, cancel the Available Commitment and declare all Loans, together with accrued interest, and all other amounts accrued or outstanding under this Agreement immediately due and payable, whereupon the Available Commitment will be immediately cancelled, the Facility shall immediately cease to be available for further utilisation and all such Loans, accrued interest and other amounts shall become immediately due and payable.

7.2 Voluntary cancellation

The Borrower may, if it gives the Lender not less than five Business Days' prior notice, cancel the whole or any part of the Available Commitment.

7.3 Voluntary prepayment of Loans

- (a) The Borrower may, if it gives the Lender not less than five Business Days' prior notice, prepay the whole or any part of any Loan.
- (b) Subject to Clause 7.3(a), a Loan may be prepaid at any time after the Utilisation Date in respect of that Loan.

7.4 Mandatory prepayment at the request of the Lender

At the Lender's request, giving not less than 180 days' prior notice in writing of such request, the Borrower must prepay the whole or any part of any Loan.

7.5 Restrictions

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and without premium or penalty.
- (c) The Borrower may not reborrow any part of the Facility which is prepaid.
- (d) The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Commitment except at the times and in the manner expressly provided for in this Agreement.
- (e) No amount of the Commitment cancelled under this Agreement may be subsequently reinstated.

- (f) If all or part of a Loan under the Facility is repaid or prepaid and is not available for redrawing (other than by operation of Clause 4.2 (*Further conditions precedent*)), an amount of the Commitment (equal to the Base Currency Amount of the amount of the Loan which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

SECTION 5
COSTS OF UTILISATION

8. INTEREST

8.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the equal to the Interest Rate.

8.2 Capitalisation of payment of interest

- (a) Interest shall be automatically capitalised and shall be added to the outstanding principal amount of each Loan on the last day of the first Interest Period, and following the first Interest Period, on the last day of each Interest Period.
- (b) After capitalisation, interest shall:
 - (i) be treated as part of the principal amount of each Loan;
 - (ii) accrue in accordance with this Clause 8; and
 - (iii) be subject to the repayment and prepayment provisions of this Agreement.

9. INTEREST PERIODS

9.1 Selection of Interest Periods

- (a) The Borrower may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan has already been borrowed) in a Selection Notice.
- (b) Each Selection Notice for a Loan is irrevocable and must be delivered to the Lender by the Borrower not later than 10:00 a.m. on the Business Day before the first day of the relevant Interest Period.
- (c) If the Borrower fails to deliver a Selection Notice to the Lender in accordance with paragraph (b) above, the relevant Interest Period will be one Month.
- (d) Subject to this Clause 9, the Borrower may select an Interest Period of three or six Months or of any other period agreed between the Borrower and the Lender in relation to the relevant Loan.
- (e) An Interest Period for a Loan shall not extend beyond the Termination Date.
- (f) Each Interest Period for a Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.

9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

9.3 Consolidation and division of Loans

- (a) Subject to paragraph (b) below, if two or more Interest Periods:
 - (i) relate to multiple Loans; and
 - (ii) end on the same date,

those Loans will, unless the Borrower specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Loan on the last day of the Interest Period.

- (b) Subject to Clause 4.3 (*Maximum number of Loans*) and Clause 5.3 (*Currency and amount*), if the Borrower requests in a Selection Notice that a Loan be divided into two or more Loans, that Loan will, on the last day of its Interest Period, be so divided with Base Currency Amounts specified in that Selection Notice, being an aggregate Base Currency Amount equal to the Base Currency Amount of the Loan immediately before its division.

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

10. COSTS AND EXPENSES

10.1 Transaction expenses

The Borrower shall promptly on demand pay the Lender the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with the negotiation, preparation, printing and execution of this Agreement and any other documents referred to in this Agreement.

10.2 Amendment costs

If the Borrower requests an amendment, waiver or consent the Borrower shall, within three Business Days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees) reasonably incurred by the Lender in responding to, evaluating, negotiating or complying with that request or requirement.

10.3 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 the preservation of any rights under, this Agreement.

SECTION 7

REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

11. REPRESENTATIONS

The Borrower makes the representations and warranties set out in this Clause 11 to the Lender on the date of this Agreement.

11.1 Status

- (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 as it is being conducted.

11.2 Binding obligations

The obligations expressed to be assumed by it in this Agreement are, subject to any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered pursuant to Clause 4 (*Conditions of Utilisation*), legal, valid, binding and enforceable obligations.

11.3 Non-conflict with other obligations

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

- (a) any law or regulation applicable to it;
- (b) its or any of its Subsidiaries' 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.

11.4 Power and authority

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

11.5 Validity and admissibility in evidence

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement to which it is a party; and
- (b) to make this Agreement to which it is a party admissible in evidence in its jurisdiction of incorporation,

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

11.6 Governing law and enforcement

- (a) The choice of English law as the governing law of this Agreement will be recognised and enforced in its jurisdiction of incorporation.
- (b) Any judgment obtained in England in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

11.7 No filing or stamp taxes

Under the law of its jurisdiction of incorporation it is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to this Agreement or the transactions contemplated by this Agreement.

11.8 Insolvency

No corporate action, legal proceeding or other procedure or step in each case described in Clause 14.6 has been taken or, to the knowledge of the Borrower, threatened in relation to it or any of its Subsidiaries, and none of the circumstances described in Clause 14.5 applies to it or any of its Subsidiaries.

11.9 No default

No Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation.

11.10 No misleading information

- (a) Any factual information provided by or on behalf of any member of the Group in relation to this Agreement was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) Nothing has occurred or been omitted from the factual information referred to in paragraph (a) above and no information has been given or withheld that results in that information being untrue or misleading in any material respect.

11.11 Pari passu ranking

Its payment obligations under this Agreement 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.

11.12 No proceedings

- (a) No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might 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 or any of its Subsidiaries.
- (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 or any of its Subsidiaries.

11.13 Repetition

The Repeating Representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on the date of each Utilisation Request and the first day of each Interest Period.

11.14 No breach of laws

It has not (and none of its Subsidiaries has) breached any law or regulation which breach has or is reasonably likely to have a Material Adverse Effect

12. INFORMATION UNDERTAKINGS

The undertakings in this Clause 12 remain in force from the date of this Agreement for so long as any amount is outstanding under this Agreement or any Commitment is in force.

12.1 Information: miscellaneous

The Borrower shall supply to the Lender:

- (a) at the same time as they are dispatched, copies of all documents dispatched by the Borrower or any member of the Group to its creditors generally (or any class of them);
- (b) 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 Group and which, if adversely determined, are reasonably likely to have a Material Adverse Effect;
- (c) 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 Group and which is reasonably likely to have a Material Adverse Effect; and
- (d) promptly on request, such further information regarding the financial condition, assets and operations of the Group as the Lender may reasonably request.

12.2 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.
- (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).

13. GENERAL UNDERTAKINGS

The undertakings in this Clause 12 remain in force from the date of this Agreement for so long as any amount is outstanding under this Agreement or any Commitment is in force.

13.1 Authorisations

The Borrower shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Lender of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this Agreement and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of this Agreement.

13.2 Compliance with laws

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

13.3 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.

- (b) Promptly upon a request by the Lender, the Company 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).

13.4 **Change of business**

The Borrower shall procure that no material change is made to the general nature of the business of it or the Group (taken as a whole) from that carried on as at the date of this agreement.

13.5 **Holding company**

Save for those circumstances which are explicitly excluded from the operation of the definition of Change of Control, the Borrower shall remain the ultimate holding company of the Group.

13.6 **Negative pledge**

- (a) The Borrower shall not create or permit to subsist any Security over any of its assets.
- (b) The Borrower shall not:
 - (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 the Borrower;
 - (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 Security listed below:
 - (i) any netting or set-off arrangement entered into by the Borrower in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
 - (ii) any payment or close out netting or set-off arrangement pursuant to any hedging transaction entered into by a member of the Borrower for the purpose of:
 - (A) hedging any risk to which any member of the Borrower is exposed in its ordinary course of trading; or
 - (B) its interest rate or currency management operations which are carried out in the ordinary course of business and for non-speculative purposes only,excluding, in each case, any Security under a credit support arrangement in relation to a hedging transaction;
 - (iii) any Security arising in connection with the whole business securitisation under which Dignity (2002) Limited is the borrower and to which the Borrower is party;
 - (iv) any lien arising by operation of law and in the ordinary course of trading;
 - (v) any Security over or affecting any asset acquired by the Borrower after the date of this Agreement if:
 - (A) the Security was not created in contemplation of the acquisition of that asset by the Borrower;

- (B) the principal amount secured has not been increased in contemplation of or since the acquisition of that asset by the Borrower; and
 - (C) the Security is removed or discharged within 12 months of the date of acquisition of such asset;
- (vi) any Security over or affecting any asset of any company which becomes the Borrower after the date of this Agreement, where the Security is created prior to the date on which that company becomes the Borrower, if:
- (A) the Security was not created in contemplation of the acquisition of that company;
 - (B) the principal amount secured has not increased in contemplation of or since the acquisition of that company; and
 - (C) the Security is removed or discharged within 12 months of that company becoming the Borrower;
- (vii) any Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Borrower in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by the Borrower; or
- (viii) any Security securing indebtedness the principal amount of which (when aggregated with the principal amount of any other indebtedness which has the benefit of Security given by the Borrower other than any permitted under paragraphs (i) to (vii) above) does not exceed £5,000,000 (or its equivalent in another currency or currencies).

13.7 **Financial indebtedness**

Save for Financial Indebtedness between it and members of the Group, the Borrower shall not incur or allow to remain outstanding any Financial Indebtedness which does not exist as at the date of this Agreement without the prior approval of the Lender (not to be unreasonably withheld).

14. **EVENTS OF DEFAULT**

Each of the events or circumstances set out in Clause 14 is an Event of Default (save for Clause 14.11 (*Acceleration*)).

14.1 **Non-payment**

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

- (a) its failure to pay is caused by:
 - (i) administrative or technical error; or
 - (ii) a Disruption Event; and
- (b) payment is made within 15 Business Days of its due date.

14.2 **Other obligations**

- (a) The Borrower does not comply with any provision of this Agreement (other than those referred to in Clause 14.1 (*Non-payment*)).

- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 10 Business Days of the earlier of (A) the Lender giving notice to the Borrower and (B) the Borrower becoming aware of the failure to comply.

14.3 **Misrepresentation**

- (a) Any representation or statement made or deemed to be made by the Borrower in this Agreement or any other document delivered by or on behalf of the Borrower under or in connection with this Agreement is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.
- (b) No Event of Default under paragraph 14.2(a) above will occur if the matters leading to such incorrect or misleading representation or statement are capable of remedy and are remedied within 20 Business Days of the earlier of (A) the Lender giving notice to the Borrower and (B) the Borrower becoming aware of such circumstances.

14.4 **Cross default**

- (a) Any Financial Indebtedness of any member of the Group is not paid when due nor within any originally applicable grace period;
- (b) Any Financial Indebtedness of any member of the Group 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);
- (c) Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described);
- (d) Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described).

No Event of Default will occur under this Clause 14.4 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs to above is less than £5,000,000 (or its equivalent in any other currency or currencies).

14.5 **Insolvency**

- (a) A member of the Group:
 - (i) is unable or admits inability to pay its debts as they fall due;
 - (ii) suspends making payments on any of its debts; or
 - (iii) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding the Lender in its capacity as such) with a view to rescheduling any of its indebtedness.
- (b) The value of the assets of the Borrower is less than its liabilities (taking into account contingent and prospective liabilities).
- (c) A moratorium is declared in respect of any indebtedness of the Borrower.

14.6 **Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any member of the Group other than a solvent liquidation;
 - (ii) a composition, compromise, assignment or arrangement with any creditor of any member of the Group;
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
 - (iv) enforcement of any Security over any assets of any member of the Group,
- or any analogous procedure or step is taken in any jurisdiction.

(b) This Clause 14.6 shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 30 days of commencement.

14.7 **Creditors' process**

Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of the Borrower and is not discharged within five Business Days.

14.8 **Unlawfulness**

It is or becomes unlawful for the Borrower to perform any of its obligations under this Agreement.

14.9 **Material adverse change**

Any event of circumstance occurs which in the reasonable opinion of the Lender constitutes a Material Adverse Effect.

14.10 **Repudiation**

The Borrower repudiates this Agreement or evidences an intention to repudiate this Agreement.

14.11 **Acceleration**

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

- (a) cancel the Available Commitment whereupon the Available Commitment shall immediately be cancelled and the Facility shall immediately cease to be available for further utilisation;
- (b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under this Agreement be immediately due and payable, whereupon they shall become immediately due and payable; and/or
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Lender.

SECTION 8
CHANGES TO PARTIES

15. CHANGES TO THE LENDER

15.1 Assignments and transfers by the Lender

Subject to this Clause 15, the Lender (the "**Existing Lender**") may:

- (a) assign any of its rights; or
- (b) transfer by novation any of its rights and obligations,

to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the "**New Lender**").

15.2 Borrower consent

The consent of the Borrower (not to be unreasonably withheld) is required for an assignment or transfer by the Existing Lender, unless such assignment or transfer is made at a time when an Event of Default is continuing.

15.3 Security

The Lender may not charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) any of its rights under this Agreement.

16. CHANGES TO THE BORROWER

The Borrower may not assign any of its rights or transfer any of its rights or obligations under this Agreement.

SECTION 9
THE LENDER

17. CONDUCT OF BUSINESS BY THE LENDER

- (a) 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.
- (b) The Lender may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.

SECTION 10
ADMINISTRATION

18. PAYMENT MECHANICS

18.1 Payments to the Lender

- (a) On each date on which the Borrower is required to make a payment under this Agreement, it shall make the same available to the Lender 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 and with such bank as the Lender, in each case, may notify to the Borrower by not less than five Business Days' notice.

18.2 Payments by the Lender

- (a) On each date on which the Lender is required to make a payment under this Agreement, the Lender shall make the same available to the Borrower 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 and with such bank as the Borrower, in each case, may notify to the Lender in the relevant Utilisation Request or Selection Notice.

18.3 Distributions to the Borrower

The Lender may (with the consent of the Borrower or in accordance with Clause 19 (*Set-off*)) apply any amount payable by it to the Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower under this Agreement.

18.4 Partial payments

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

18.5 No set-off by the Borrower

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

18.6 Business Days

- (a) Any payment under this Agreement 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 an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

18.7 **Currency of account**

- (a) Subject to paragraphs (b) to (d) below, the Base Currency is the currency of account and payment for any sum due from the Borrower under this Agreement.
- (b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated, pursuant to this Agreement, on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated, pursuant to this Agreement, when that interest accrued.
- (d) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

18.8 **Disruption to payment systems etc.**

If either the Lender determines (in its discretion) that a Disruption Event has occurred or the Lender is notified by the Company that a Disruption Event has occurred:

- (a) the Lender may, and shall if requested to do so by the Company, consult with the Company with a view to agreeing with the Company such changes to the operation or administration of the Facilities as the Lender may deem necessary in the circumstances;
- (b) the Lender shall not be obliged to consult with the Company in relation to any changes mentioned in paragraph (a) if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) any such changes agreed upon by the Lender and the Company shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of this Agreement notwithstanding the provisions of Clause 25 (*Amendments and Waivers*); and
- (d) the Lender shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Lender) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 18.8.

19. **SET-OFF**

The Lender may set off any matured obligation due from the Borrower under this Agreement (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Borrower, 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.

20. **NOTICES**

20.1 **Communications in writing**

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

20.2 **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 this Agreement is that identified with its name below, or any substitute address or fax number or department or officer as the Party may notify to the other Parties by not less than five Business Days' notice.

20.3 **Delivery**

- (a) Any communication or document made or delivered by the Lender to another Party under or in connection with this Agreement will only be effective:
 - (i) if by way of fax, when received in legible form; or
 - (ii) 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 20.2 (*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 Company in accordance with this Clause will be deemed to have been made or delivered to the Borrower.
- (d) Any communication or document which becomes effective, in accordance with paragraphs (a) to (c) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

20.4 **Electronic communication**

- (a) Any communication or document to be made or delivered by one Party to another under or in connection with this Agreement may be made or delivered by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
 - (i) 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
 - (ii) 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 or delivery as specified in paragraph (a) above to be made between the Borrower and the Lender may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication or delivery.
- (c) Any such electronic communication or document as specified in paragraph (a) above made or delivered by one Party to another will be effective only when actually received (or made available) in readable form and in the case of any electronic communication or document made or delivered by a Party to the Lender only if it is addressed in such a manner as the Lender shall specify for this purpose.

- (d) Any electronic communication or document which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication or document 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.
- (e) Any reference in this Agreement to a communication being sent or received or a document being delivered shall be construed to include that communication or document being made available in accordance with this Clause 20.4.

20.5 **English language**

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement 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.

21. **CALCULATIONS AND CERTIFICATES**

21.1 **Accounts**

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

21.2 **Certificates and determinations**

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

21.3 **Day count convention**

Any interest, commission or fee accruing under this Agreement will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Market differs, in accordance with that market practice.

22. **INDEMNITY**

The Borrower shall, within three Business Days of demand, indemnify the Lender against any cost, loss or liability incurred by it as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by the Borrower to pay any amount due under this Agreement on its due date;
- (c) funding, or making arrangements to fund a Utilisation 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); or
- (d) a Utilisation (or part of a Utilisation) not being prepaid in accordance with a notice of prepayment given by a Borrower.

23. **PARTIAL INVALIDITY**

If, at any time, any provision of this Agreement 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.

24. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement. No waiver or election to affirm this Agreement on the part of the Lender shall be effective unless 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 this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

25. AMENDMENTS AND WAIVERS

No term of any of this Agreement may be amended or waived without the prior consent of the Lender and the Borrower and any such amendment or waiver will be binding on all Parties.

26. CONFIDENTIAL INFORMATION

26.1 Confidentiality

The Lender agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 26.2 (*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.

26.2 Disclosure of Confidential Information

The Lender may disclose:

- (a) to any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as the Lender shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;
- (b) to any person:
 - (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under this Agreement and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
 - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, this Agreement and/or the Borrower and to any of its Affiliates, Related Funds, Representatives and professional advisers;

- (iii) appointed by the Lender or by a person to whom paragraph (b)(i) or (ii) above applies to receive communications, notices, information or documents delivered pursuant to this Agreement on its behalf;
- (iv) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i) or (b)(ii) above;
- (v) 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;
- (vi) 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;
- (vii) who is a Party; or
- (viii) with the consent of the Borrower;

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

- (A) in relation to paragraphs (b)(i), (b)(ii) and (b)(iii) 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 paragraph (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
 - (C) in relation to paragraphs (b)(v), (b)(vi) and (b)(vii) 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;
- (c) to any person appointed by the Lender or by a person to whom paragraph (b)(i) or (b)(ii) above applies to provide administration or settlement services in respect of one or more of this Agreement, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for Use With Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between the Borrower and the Lender; and

- (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to this Agreement and/or the Borrower if the rating agency 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.

26.3 **Entire agreement**

This Clause 26 constitutes the entire agreement between the Parties in relation to the obligations of the Lender under this Agreement regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

26.4 **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.

26.5 **Notification of disclosure**

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

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(v) of Clause 26.2 (*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 26.

26.6 **Continuing obligations**

The obligations in this Clause 26 are continuing and, in particular, shall survive and remain binding on the Lender for a period of twelve months from the earlier of:

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

27. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

SECTION 11
GOVERNING LAW AND ENFORCEMENT

28. GOVERNING LAW

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

29. ENFORCEMENT

29.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to 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.

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

SCHEDULE 1
CONDITIONS PRECEDENT

1. Borrower

- (a) A copy of the constitutional documents of the Borrower.
- (b) A copy of a resolution of the board of directors of the Borrower:
 - (i) approving the terms of, and the transactions contemplated by, this Agreement and resolving that it execute this Agreement;
 - (ii) authorising a specified person or persons to execute this Agreement; 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 and Selection Notice) to be signed and/or despatched by it under or in connection with this Agreement.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above.
- (d) A certificate of the Company (signed by a director) confirming that borrowing or guaranteeing, as appropriate, the Commitment would not cause any borrowing, guaranteeing or similar limit binding on the Borrower to be exceeded.
- (e) A certificate of an authorised signatory of the Borrower certifying that each copy document relating to it specified in this Schedule 1 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. Legal opinions

A due authorisation and enforceability legal opinion of Linklaters LLP in customary form, legal advisers to the Borrower in England.

SCHEDULE 2
REQUESTS
PART I
UTILISATION REQUEST

From: [Borrower]

To: [Lender]

Dated:

[Company] – [] Facility Agreement
dated [] (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)
Currency of Loan: £
Amount: [] or, if less, the Available Commitment
Interest Period: []
3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) of the Agreement is satisfied on the date of this Utilisation Request.
4. The proceeds of this Loan should be credited to [*account*].
5. This Utilisation Request is irrevocable.

Yours faithfully

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

PART II
SELECTION NOTICE

From: [Borrower]
To: [Lender]
Dated:

[Company] – [] Facility Agreement
dated [] (the "Agreement")

1. We refer to the Agreement. This is a Selection Notice. Terms defined in the Agreement have the same meaning in this Selection Notice unless given a different meaning in this Selection Notice.
2. We refer to the following Loan[s] in [identify currency] with an Interest Period ending on [].*
3. [We request that the above Loan[s] be divided into [] Loans with the following Base Currency Amounts and Interest Periods:]**

or

[We request that the next Interest Period for the above Loan[s] is []].***
4. We request that the above Loan[s] [is]/[are] [denominated in the same currency for the next Interest Period]/[denominated in the following currencies: []]. As this results in a change of currency we confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) of the Agreement is satisfied on the date of this Selection Notice. The proceeds of any change in currency should be credited to [account].
5. This Selection Notice is irrevocable.

Yours faithfully

.....
authorised signatory for
[name of the Borrower]

* Insert details of all Loans in the same currency which have an Interest Period ending on the same date.
** Use this option if division of Loans is requested.
*** Use this option if sub-division is not required.

The Borrower

Address: Dignity plc 4 King Edwards Court King Edwards Square Sutton Coldfield

Fax No: [REDACTED]

Attention: [REDACTED]

By: [REDACTED] [REDACTED]

The Lender

Address:

Fax No:

Attention:

By:

The Borrower

Address:

Fax No:

Attention:

By:

The Lender

Address: [REDACTED]

Fax No: [REDACTED]

Attention: [REDACTED]

By: [REDACTED]