

**Greene King Neighbourhood Estate Pubs Limited**

**Registration No. 5073303**

**(the "Company")**

**Written Resolution of the Members**

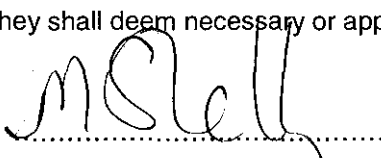
We, being all those members entitled to attend and vote at meetings of the Company convened for the purpose of passing or sanctioning the following resolutions, hereby resolve unanimously in accordance with Section 381A of the Companies Act 1985 (as amended) as follows:

It being noted that:

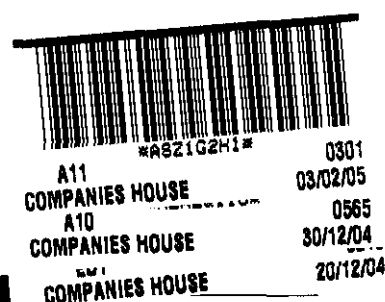
- A.** It was proposed that the Company together with Greene King Neighbourhood Pub Holdings Limited, should accede to a £450,000,000 revolving credit facility agreement dated 8 December 2004, between (amongst others), Greene King plc as Borrower (as defined in the Facility Agreement) and Guarantor (as defined in the Facility Agreement) and Lloyds TSB Bank plc as Agent (the "**Facility Agreement**") as an Additional Guarantor (as defined in the Facility Agreement).
- B.** The Company has provided copies of the following documents in relation to the proposal which are attached to this written resolution:
- (i) an execution copy of the Facility Agreement;
  - (ii) a draft accession deed to be entered into by the Company as an Additional Guarantor (as defined in the Facility Agreement) (the "**Accession Deed**").

Accordingly, **WE RESOLVE THAT:**

- 1** That it is in the best interests of the Company to accede to the Facility Agreement and it is to the further benefit and advantage of the Company to give the guarantee on the terms contemplated in the Facility Agreement;
- 2** That the terms of the Facility Agreement and the transactions contemplated thereby, be and hereby approved; and
- 3** That the Directors are instructed to take any action in connection with the negotiation, execution, delivery and performance of the Facility Agreement and the Accession Deed as they shall deem necessary or appropriate.

Signed:   
For and on behalf of RepairDesign Limited

Date: 13 December 2004



## **Accession Agreement**

To: Lloyds TSB Bank plc Capital Markets as Agent

From: Greene King plc and Greene King Neighbourhood Estate Pubs Limited

Date: December 2004

### **GREENE KING PLC – £450,000,000 Credit Agreement Dated 8 December, 2004 (the “Agreement”)**

We refer to the Agreement. This is an Accession Agreement.

Greene King Neighbourhood Estate Pubs Limited (company number 5073303) of Westgate Brewery, Bury St Edmunds, Suffolk, IP33 1QT agrees to become an Additional Guarantor and to be bound by the terms of the Agreement as an Additional Guarantor.

This Accession Agreement is governed by English law.

GREENE KING PLC

By:

GREENE KING NEIGHBOURHOOD ESTATE PUBS LIMITED

By:

(  
(  
BE A TRUE  
ORIGINAL  
*Linkworts*  
LINKWORTS  
DATE *2/2/05*

CONFORMED COPY

## AGREEMENT

DATED 8th December, 2004

GREENE KING PLC

the Company

GREENE KING BREWING AND RETAILING LIMITED  
AND GREENE KING ACQUISITIONS LIMITED

the Original Guarantors

THE BANKS AND FINANCIAL INSTITUTIONS  
SET OUT IN THE FIRST SCHEDULE

the Original Banks

and

LLOYDS TSB BANK PLC CAPITAL MARKETS

the Agent

BNP PARIBAS  
DRESDNER KLEINWORT WASSERSTEIN LIMITED  
LLOYDS TSB BANK PLC CAPITAL MARKETS

and

THE ROYAL BANK OF SCOTLAND PLC

the Mandated Lead Arrangers

ALLEN & OVERY

ALLEN & OVERY LLP

LONDON  
BK:2049437.12

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THIS AGREEMENT is made the 8<sup>th</sup> December, 2004

**BETWEEN:**

- (1) **GREENE KING PLC**, a company incorporated in England, registered no 24511 having its registered office at Westgate Brewery, Bury St Edmunds, Suffolk, IP33 1QT (the **Company**);
- (2) **GREENE KING BREWING AND RETAILING LIMITED**, a company incorporated in England, registered no. 3298903, and **GREENE KING ACQUISITIONS LIMITED**, a company incorporated in England, registered no. 00315671 each having its registered office at Westgate Brewery, Bury St Edmunds, Suffolk, IP33 1QT (the **Original Guarantors**);
- (3) **BNP PARIBAS, DRESNER KLEINWORT WASSERSTEIN LIMITED, LLOYDS TSB BANK PLC CAPITAL MARKETS** and **THE ROYAL BANK OF SCOTLAND PLC** as mandated lead arrangers (the **Mandated Lead Arrangers**);
- (4) **THE BANKS AND FINANCIAL INSTITUTIONS** whose names are set forth in Schedule 1 (the **Original Banks**); and
- (5) **LLOYDS TSB BANK PLC CAPITAL MARKETS** (in this capacity, the **Agent**).

By which it is agreed as follows:

**1. INTERPRETATION**

**1.1** In this Agreement, unless the context otherwise requires:

**Accession Agreement** means a letter substantially in the form of Schedule 9 with such amendments as the Company and the Agent may agree;

**Additional Borrower** means a member of the Group which becomes a Borrower after the date of this Agreement;

**Additional Financing** means any securitisation, debt capital markets issue, syndicated loan financing or co-ordinated series of bilateral loan financing other than the Permitted Securitisation and any other financing entered into in connection with the refinancing of the Bridge Facility;

**Additional Guarantor** means a member of the Group which becomes a Guarantor after the date of this Agreement;

**Advance** means an advance made by the Banks under the Facility or the principal amount outstanding of that advance;

**Availability Period** means the period from the date of this Agreement to the date falling one month before the Final Termination Date;

**Available Facility Amount** means, in relation to the Facility and a proposed Advance, the aggregate of the Commitments under the Facility at the time of such proposed Advance, adjusted (as indicated below) so as to take into account:

- (a) the aggregate of the Outstandings under the Facility at the time of making such proposed Advance (an adjustment downwards);

- (b) to the extent not already taken into account, any reduction in the Commitment of a Bank under the Facility which will occur prior to the commencement of, or during, the Term relating to the proposed Advance consequent upon a cancellation of the whole or any part of the Commitment of such Bank, pursuant to the terms hereof (an adjustment downwards);
- (c) the aggregate of the amount of any Advances which the Banks are then obliged to make or accept under the Facility on or before the proposed Utilisation Date (an adjustment downwards); and
- (d) the aggregate of the amount of any Advances which have been made or accepted by the Banks and which are due to be repaid or mature (as the case may be) on or before the proposed Utilisation Date (an adjustment upwards);

**Banks** means, subject to this Agreement, the Original Banks and any Transferee Bank which becomes a party hereto pursuant to a Transfer Certificate;

**Borrower** means the Company or an Additional Borrower;

**Bridge Facility** means the £1,200,000,000 facility agreement dated 8th July, 2004 between, amongst others, the Company and the Agent;

**Commitment** means:

- (a) in relation to an Original Bank, the amount set opposite its name in Schedule 1 under the heading Commitments; and
- (b) in relation to a Bank which becomes a Bank after the date of this Agreement, the amount of Commitment acquired by it under Clause 24,

to the extent not transferred, cancelled or reduced under this Agreement;

**Dangerous Substance** means any radioactive emissions and any natural or artificial substance (whether in solid or liquid form or in the form of gas or vapour and whether alone or in combination with any other substance) capable of causing harm to man or any other living organism or damaging the environment or public health or welfare, including any controlled, special, hazardous, toxic, radioactive or dangerous waste;

**Default** means any Event of Default and any event which, with the giving of notice, lapse of time or fulfilment of other condition, would constitute an Event of Default;

**Encumbrance** means any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, diligence, assignment by way of security or other security interest, title retention or other encumbrance securing a priority of payment ahead of unsecured creditors;

**Environmental Law** means any law or regulation or any code of practice, circular, guidance note or the like (whether in the UK or elsewhere) concerning the protection of human health or the environment or the conditions of the work place or the generation, transportation, storage, treatment or disposal of Dangerous Substances;

**Environmental Licence** means any authorisation required by an Environmental Law;

**Event of Default** means any of those events specified in Clause 18.1;

**Facility** means the facility referred to as such in Clause 2.1;

**Facility Office** in relation to a Bank, means its office in the United Kingdom specified from time to time for the purposes of this Agreement;

**Fee Letter** means a letter entered into by reference to this Agreement between the Company and the Agent setting out the amount of certain fees referred to in this Agreement;

**Final Termination Date** means the date falling five years after the date of this Agreement;

**Finance Document** means this Agreement, a Fee Letter or any other document designated as such by the Agent and the Company;

**Finance Party** means a Bank or the Agent;

**GK Securitisation Loan** means any loan or investment by way of equity (provided that the aggregate maximum amount does not exceed £350,000,000) provided by the Company to any Securitisation Vehicle to fund (i) acquisitions of property from any member of the Group in accordance with the terms of this Agreement or (ii) the working capital requirements of a Securitisation Vehicle or (iii) an initial subscription for equity in a Securitisation Vehicle by the Company in connection with the Permitted Securitisation.

**GK Securitisation Security** means any security granted by the Company in connection with the Permitted Securitisation, over its shares in a Securitisation Vehicle or over its rights in respect of any GK Securitisation Loan.

**Group** means the Company and its subsidiaries from time to time and **member of the Group** shall be construed accordingly;

**Guarantor** means the Company, an Original Guarantor or an Additional Guarantor;

**Instructing Group** means, at any time, a group of Banks:

- (a) whose share in the outstanding Advances and whose undrawn Commitments then aggregate  $66\frac{2}{3}$  per cent. or more of the aggregate of all the outstanding Advances and the undrawn Commitments of all the Banks;
- (b) if there is no Advance then outstanding, whose undrawn Commitments then aggregate  $66\frac{2}{3}$  per cent. or more of the Total Commitments; or
- (c) if there is no Advance then outstanding and the Total Commitments have been reduced to zero, whose Commitments aggregated  $66\frac{2}{3}$  per cent. or more of the Total Commitments immediately before the reduction;

**Latest Accounts** means the audited or the unaudited interim financial statements of the Company and its subsidiaries (including the notes thereto) most recently submitted to the Agent under Clause 17.1(a)(i) and (ii);

**LIBOR** means in relation to an Advance:

- (a) the British Bankers Association Interest Settlement Rate appearing on the Telerate Screen; or
- (b) (if no relevant rate appears on the Telerate Screen for the purposes of paragraph (a) above or the Agent determines that no rate for a period of comparable duration to the



Term of that Advance appears on the Telerate Screen) the rate quoted to the Agent by the Reference Banks,

(in each case) at or about 11.00 a.m. on the relevant Utilisation Date as being the interest rates quoted in the London interbank market for the offering of deposits in Sterling for a period equal to the Term of that Advance;

**Mandatory Cost** means the cost of complying with certain regulatory requirements, expressed as a percentage rate per annum and calculated by the Agent under Schedule 3.

**Margin** means:

- (a) for the period from the date of this Agreement to the date of completion of the Permitted Securitisation (both dates inclusive), 1.25 per cent. per annum; and
- (b) thereafter, as adjusted in accordance with Clause 7.2 (Margin adjustments).

**Material Obligation** means all the covenants made by the Obligor in accordance with Clause 17;

**Obligor** means a Borrower or a Guarantor;

**Original Audited Accounts** means the audited consolidated profit and loss account and cash flow statement of the Group for the financial year ended, and the audited consolidated balance sheet of the Group as at, 2nd May, 2004 and all related notes and the directors' and auditors' reports;

**Outstandings** means at any time in relation to the Facility, the aggregate of the principal amount of each outstanding Advance under the Facility;

**Party** means a party to this Agreement;

**Pounds, Sterling and £** means the lawful currency for the time being of the United Kingdom;

**Permitted Securitisation** means:

- (a) any transaction or series of transactions where Borrowings are incurred by one or more Securitisation Vehicle(s) from:
  - (i) a person other than a member of the Group up to no greater than an aggregate amount of £600,000,000; or
  - (ii) in the case of the GK Securitisation Loan only, the Company,  
in connection with a securitisation (or any other financing premised on the cash flows and assets) of all or part of the tenanted and/or managed pubs business of the Group (the **Securitised Assets**) including any "tap issue" of bonds, where the recourse of the provider(s) of that Borrowing is limited to:
    - (i) the assets of the Securitisation Vehicle(s);
    - (ii) the Securitised Assets; and
    - (iii) the shareholding or other interest of any other member(s) of the Group in the Securitisation Vehicle(s); or

- (b) any transaction or series of transactions approved by the Agent (acting on the instructions of the Banks).

**Prescribed Time** means:

- (a) in the case of the first Advance, 9 a.m. on the proposed Utilisation Date; or
- (b) in the case of any subsequent Advance, 10.30 a.m. one business day before the proposed Utilisation Date;

**Reference Banks** means Lloyds TSB Bank plc, BNP Paribas and The Royal Bank of Scotland plc and any other bank or financial institution appointed as such by the Agent under this Agreement in consultation with the Company;

**Repayment Date** means, in relation to any Advance, the last day of the Term of such Advance;

**Requested Amount** means the aggregate principal amount of the Advance requested in any Utilisation Request;

**Rollover Advance** means an Advance:

- (a) which is being made solely to refinance an outstanding Advance;
- (b) which is in an amount equal to or less than such outstanding Advance; and
- (c) the proposed date of which coincides with the Repayment Date of such Advance;

**Round Amount** means a minimum amount of £10,000,000 and, if more, being also an integral multiple of £5,000,000;

**Sale and Leaseback Assets** means the freehold and leasehold interests in those properties forming part of the "Neighbourhood Estate" and sold by the vendor group companies to London & Regional Pub Holdings Limited under a sale and purchase agreement dated 19th December, 2002;

**Sapphire Companies** means:

- (a) Sapphire Food North East No.1 Limited;
- (b) Sapphire Food South West No.2 Limited;
- (c) Sapphire Food North West No.3 Limited;
- (d) Sapphire Food South East No.4 Limited; and
- (e) Sapphire Rural Destination No.5 Limited;

**Securitisation Vehicle** means:

- (a) a member of the Group (which is not an Obligor) whose sole purpose is to facilitate or participate in the Permitted Securitisation;
- (b) Greene King Leisure Pub Holdings Limited;

- (c) Sapphire Companies; and
- (d) any other member of the Group agreed between the Company and the Instructing Group.

**Sterling Amount** means the amount of a Utilisation;

**Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

**Tax Payment** means either the increase in a payment made by an Obligor to a Finance Party under Clause 10.2 (Tax gross-up) or under Clause 10.3 (Tax Indemnity).

**Taxes** means all present and future taxes, levies, imposts, duties, deductions, fees, withholdings and charges in the nature of tax, with interest (if payable) thereon and penalties (if payable) in respect thereto, if any, and **Taxation** and **Tax** shall be construed accordingly;

**Taxes Act** means the Income and Corporation Taxes Act 1988;

**Term** means the period for which an Advance is to be borrowed, as specified in the Utilisation Request relating thereto and which complies with Clause 4.2(d);

**Total Commitments** means, in relation to the Banks, the aggregate for the time being of the Commitments, being £450,000,000 at the date of this Agreement;

**Transfer Certificate** means a certificate substantially in the form set out in Schedule 7 signed by a Bank and a Transferee Bank, whereby:

- (a) such Bank seeks to procure the transfer to such Transferee Bank of all or a part of such Bank's rights and obligations hereunder as a Bank, subject to the provisions of this Agreement; and
- (b) such Transferee Bank undertakes to perform the obligations it will so assume as a result of the delivery of such certificate to the Agent;

**Transferee Bank** means a bank or financial institution to which a Bank seeks to transfer all or part of its rights and obligations as a Bank in accordance with Clause 24;

**Utilisation** means an Advance made pursuant to this Agreement;

**Utilisation Date** means the date on which an Advance is to be made; and

**Utilisation Request** means a request for an Advance made to the Agent pursuant to Clause 4.1 to be signed by a Borrower.

1.2 In this Agreement, unless the context otherwise requires:

- (a) the **Borrowers**, the **Guarantors**, the **Agent** and the **Banks** shall be construed so as to include their respective successors and permitted assigns;
- (b) a **business day** shall be construed as a reference to a day (other than a Saturday or a Sunday) on which banks are open for general business in London;

- (c) **know your client** requirements are the identification checks that a Finance Party is required to carry out in order to meet its obligations under any applicable law or regulations to identify a person who is (or is to become) its customer;
- (d) references to Clauses, paragraphs and Schedules shall be construed as references to the clauses and paragraphs of, and the schedules to, this Agreement and references to this Agreement shall include its Schedules;
- (e) references to the Finance Documents or any other document shall be construed as references to the Finance Document or those documents as amended, varied, supplemented or novated with the concurrence of the relevant parties and of the Agent;
- (f) references to the masculine gender include the feminine and neuter genders and vice versa and references to the singular shall include the plural;
- (g) the index to this Agreement and the headings of the Clauses are inserted for ease of reference only and shall be ignored in the construction of this Agreement;
- (h) references to persons shall include firms, corporations, societies and associations (whether incorporated or not), states and administrative and governmental entities, whether or not any of the foregoing is a separate legal entity;
- (i) unless the context otherwise requires, a reference herein to a **subsidiary** of a person means another person whose accounts and/or affairs are from time to time required by relevant law or accounting convention or practice to be included within the consolidated accounts of the first mentioned person and a reference herein to a **wholly-owned subsidiary** of a person means a subsidiary of which that person owns at least 95 per cent. of its equity share capital and a reference herein to **equity share capital** has the meaning ascribed to it by section 744 of the Companies Act 1985;
- (j) unless the context otherwise requires, a reference herein to a **holding company** of a person is a reference to another person of which the first mentioned person is a subsidiary;
- (k) the expression **dormant** used in relation to any company means that such company is dormant within the meaning of section 249AA of the Companies Act 1985, has liabilities in aggregate not exceeding the aggregate value of its assets and has assets the aggregate value of which does not exceed £50,000;
- (l) the expression **indebtedness** means any obligation for the payment or repayment of money, whether present or future, actual or contingent;
- (m) references to any statute, law, decree or regulation shall be deemed to be references to such statute, law, decree or regulation as re-enacted, amended, extended or replaced from time to time (whether before or after the date of this Agreement);
- (n) references to time are to London time;
- (o) references to **month** or **months** means a period of the required number of calendar months but ending, subject to the exceptions below, on the day of the calendar month corresponding to the day of the calendar month on which it started and **monthly** shall be construed accordingly. The exceptions are that (i) if the period started on the last business day in a calendar month or if there is no such numerically corresponding

day, it shall end on the last business day in the relevant calendar month and (ii) if such numerically corresponding day is not a business day, the period shall end on the next business day in the same calendar month but if there is no such business day it shall end on the preceding business day;

(p) a **material adverse effect** means:

- (i) a material adverse effect on the business or financial condition of the Group (other than any Securitisation Vehicle) taken as a whole; or
- (ii) a material adverse effect on the ability of any Obligor to perform its payment obligations under any of the Finance Documents;

(q) the following expressions are defined in Schedule 5:

- (i) Borrowings;
- (ii) Compliance Test Date;
- (iii) Consolidated Net Interest Payable;
- (iv) Consolidated EBITDA;
- (v) Consolidated Tangible Fixed Assets;
- (vi) Consolidated Net Debt;
- (vii) Directors' Financial Certificate;
- (viii) Financial Year;
- (ix) Financial Year Date;
- (x) Mid Year Date;
- (xi) Net Debt Ratio; and
- (xii) wholly-owned member of the Group; and

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

1.3 Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the Third Parties Act) to enforce or to enjoy the benefit of any term of this Agreement. Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

## **2. THE FACILITIES**

2.1 The Banks hereby grant to the Borrowers, upon the terms and conditions of this Agreement a Sterling revolving credit facility under which the Banks agree to make Advances to the Borrowers up to an aggregate amount not exceeding the Total Commitments.

- 2.2 Subject to the other provisions of this Agreement, no Advance is to be outstanding after the Final Termination Date.
- 2.3 The obligations and rights of a Finance Party under the Finance Documents are several. The failure by a Bank to perform its obligations under the Finance Documents shall not affect the obligations of any other Bank, the Agent, a Borrower or a Guarantor to perform any of their respective obligations under the Finance Documents nor shall the Agent or any Bank be responsible for the obligations of any other of them under the Finance Documents. The foregoing shall not prejudice any right that a Borrower or a Guarantor may have against a Bank with respect to any default by that Bank in performing an obligation due by it under the Finance Documents for the account of a Borrower, or as the case may be, a Guarantor.
- 2.4 Notwithstanding any other provision of the Finance Documents, the interests of the Finance Parties are several and the amount from time to time due to the Agent (for its own account) and to each Bank shall be a separate and independent debt. The Finance Parties shall have the right to protect and enforce their rights arising under this Agreement separately and it shall not be necessary for the Agent or any Bank (as the case may be) to be joined as an additional party in any proceedings to that end.
- 2.5 Each Bank will participate in the Facilities through its Facility Office.
- 2.6 If a change in any relevant currency of a country occurs, the Finance Documents will be amended to the extent the Agent (after consultation with the Company) reasonably specifies it to be necessary to reflect the change in currency and to put the Banks in the same position so far as possible, that they would have been in if no change in currency had occurred.

### 3. PURPOSE

- 3.1 Each Borrower shall apply each Advance made to it to:
- (a) partially refinance the Bridge Facility; or
  - (b) finance the general corporate purposes of the Group other than a Securitisation Vehicle.
- 3.2 Without affecting the obligations of the Company in any way, no Finance Party is bound to monitor or verify the application of any Advance.

### 4. UTILISATION PROCEDURES

- 4.1 Subject to the provisions of this Agreement, a Borrower may utilise a Facility by delivering a duly completed Utilisation Request to the Agent, not later than the Prescribed Time in the form set out in Schedule 4 by telex, telefax or letter. The Agent will notify the Banks, promptly, of each such Utilisation Request so received by it.
- 4.2 Each Utilisation Request made pursuant to Clause 4.1 shall be irrevocable and binding upon the relevant Borrower and shall specify (*inter alia*):
- (a) the identity of the Borrower;
  - (b) the proposed Utilisation Date, which shall be a business day falling on or before the final day of the relevant Availability Period;

- (c) the Requested Amount of the proposed Utilisation (which must be a Round Amount not exceeding the Available Facility Amount);
  - (d) in the case of an Advance, the Repayment Date, being the last day of the Term (the Term of the proposed Utilisation being a period of one, two, three or six months or such other period as may exceptionally be agreed by all of the Banks, which will begin on the proposed Utilisation Date and end on a business day which is or precedes the Final Termination Date);
  - (e) an account of the Borrower with a bank in London to which the proceeds of such Utilisation are to be paid; and
  - (f) No more than 10 Advances may be outstanding at any time.
- 4.3 Each Borrower shall ensure that no Advance will result in the aggregate of all Outstandings exceeding the Total Commitments at any time.
- 4.4 Whenever the Banks are required to participate in the making of an Advance, the amount of the Advance shall be allocated to and apportioned amongst the Banks by the Agent rateably in the proportions which their Commitments bear to the Total Commitments at that time.
- 4.5 With respect to Utilisation Requests for Advances, the Agent shall, not later than noon on the date of receipt of the relevant Utilisation Request, notify the Banks by telex, telefax or letter specifying:
- (a) the proposed Utilisation Date;
  - (b) the Requested Amount;
  - (c) in the case of an Advance, the Term of the proposed Utilisation and the Repayment Date; and
  - (d) the allocation to and apportionment amongst the Banks of the Requested Amount.

## **5. MAKING OF ADVANCES**

If the Agent notifies a Bank that it is to make an Advance in accordance with Clause 4 then, on the relevant Utilisation Date but subject to this Agreement, such Bank shall make such Advance through its Facility Office in accordance with this Agreement.

## **6. REPAYMENT**

- 6.1 Subject to this Agreement each Borrower shall repay each Advance made to it in full on its Repayment Date in accordance with this Agreement.
- 6.2 If, on the Final Termination Date, any Advance remains outstanding, the relevant Borrower shall repay that Advance on that date together with all unpaid interest and fees and any other sum then due under this Agreement.

## **7. INTEREST**

- 7.1 (a) The following provisions of this Clause 7.1 apply with respect to interest on an Advance, that is to say on the Repayment Date (and, if applicable, on the expiry of each period of six months during the Term of such Advance) relating to such

Advance, the relevant Borrower shall pay to the Agent accrued interest on that Advance made to it, for the account of the Bank which made such Advance.

(b) Subject to Clause 14, the rate of interest applicable to such Advance made by a Bank hereunder for the Term thereof shall be the rate per annum determined by the Agent to be the sum of:

- (i) LIBOR for such Advance;
- (ii) the Margin; and
- (iii) the Mandatory Cost applicable thereto.

(c) Each Advance has one Term only.

## 7.2 Margin adjustments

(a) In this Subclause:

**Consolidated Net Debt** and **Consolidated EBITDA** have the meanings given to them in Schedule 5 (Financial covenants and relevant definitions).

**Margin Certificate** is a certificate, substantially in the form of Schedule 10 (Form of Margin Certificate), setting out the amount of Consolidated Net Debt and Consolidated EBITDA as at the relevant date.

**Quarter Year Date** means the date which always falls:

- (i) 12 weeks after the previous Financial Year Date;
- (ii) on a Compliance Test Date; and
- (iii) 12 weeks after the previous Mid Year Date.

(b) The Company must supply to the Agent a Margin Certificate within 60 days of each Quarter Year Date.

(c) A Margin Certificate must be signed by an authorised signatory of the Company.

(d) Subject to the other provisions of this Subclause, following the date of completion of the Permitted Securitisation, the Margin will be calculated by reference to the table below and the information set out in the relevant Margin Certificate:

Column 1 Ratio of Consolidated Net Debt to Consolidated EBITDA	Column 2 Margin (per cent. per annum)
Greater than 5.0:1	1.25
Greater than 4.5:1 but less than or equal to 5.0:1	1.00
Greater than 4.0:1 but less than or equal to 4.5:1	0.90
Greater than 3.5:1 but less than or equal to 4.0:1	0.80
Greater than 3.0:1 but less than or equal to 3.5:1	0.70
Less than or equal to 3.0:1	0.60



(e) Any change in the Margin will, subject to paragraph (f) below, apply to each Advance made, or (if it is outstanding) from the start of its next Term, two Business Days following receipt by the Agent of the Margin Certificate.

(f) For so long as:

(i) the Company is in default of its obligation under this Agreement to provide a Margin Certificate; or

(ii) an Event of Default is outstanding,

the Margin will be the highest applicable rate, being 1.25 per cent. per annum.

(g) If the Margin has been calculated on the basis of a Margin Certificate but would have been higher if it had been based on the subsequent financial statements of the Company the Margin will instead be calculated by reference to the relevant financial statements of the Company. Any change will have a retrospective effect. If, in this event, any amount of interest has been paid by the Company on the basis of the Margin Certificate, the Company must immediately pay to the Agent any shortfall in the amount which would have been paid to the Banks if the Margin had been calculated by reference to the relevant financial statements.

7.3 If an Obligor fails to pay any sum on its due date for payment under the Finance Documents (howsoever arising) then that Obligor (but without prejudice to the other rights of the Agent or the Banks with respect to such failure) shall pay interest thereon on demand of the Agent from time to time, from that date up to the date of actual payment (as well after as before any demand or judgment) and compounded at the end of such periods as may be determined by the Agent under this Clause 7.3. Such interest shall be calculated at a rate per annum determined by the Agent to be the aggregate of:

(a) the Margin;

(b) 1.0 per cent.;

(c) LIBOR for each such period (the time for determining which shall be at or about 11.00 a.m. on the first day of the period in question), provided that if the Agent reasonably determines that LIBOR cannot practicably be determined for this purpose then LIBOR shall be taken to be the rate per annum which the Agent determines after consultation with an Instructing Group to be the cost of funding an amount equivalent to the unpaid sum for the relevant period from such sources as the Agent from time to time determines; and

(d) the Mandatory Cost (if any) relating to such unpaid sum calculated by the Agent at the beginning of each such period, being calculated in accordance with Schedule 3, as if references therein to the Advance were to the unpaid sum.

7.4 The Agent shall promptly notify each relevant Party of each rate of interest determined by it under this Clause 7 or Clause 14.

7.5 All interest and other payments under the Finance Documents which are to be calculated by reference to a rate per annum shall accrue from day to day and be calculated on the basis of the actual days elapsed and a 365 day year.

- 7.6 Each determination of a rate of interest or of other amounts under the Finance Documents by the Agent shall, in the absence of manifest error, be conclusive and binding upon the parties to the Finance Documents.

## **8. CONDITIONS PRECEDENT**

- 8.1 No Utilisation Request at all may be made unless the Agent has received all of the documents listed in Part 1 of Schedule 2, which shall be in form and substance satisfactory to it, prior to or at the same time as, the giving of the first Utilisation Request hereunder and the Agent shall promptly notify the Company and the Banks following fulfilment of all of such conditions.
- 8.2 The obligations of the Banks to make Advances shall also be subject to the following conditions:
- (a) that, subject to Clause 16.2, the representations and warranties set forth in Clause 16 will be true and correct on each of the times of the giving of a Utilisation Request in respect thereof and at the time of making of Advances in pursuance thereof;
  - (b) that no Event of Default (or, in the case of an Advance other than a Rollover Advance, Default) shall, at the time of the giving of a Utilisation Request in respect thereof or at the time of making of Advances in pursuance thereof, have occurred and be continuing or would result from the making of such Advances; and
  - (c) that no petition for the winding up or liquidation of the Company or any of its subsidiaries (except for any subsidiary which is a dormant company or a Securitisation Vehicle) has been presented at the time of the giving of a Utilisation Request in respect thereof or at the time of making the Advances in pursuance thereof.
- 8.3 The conditions and provisions specified in this Clause 8 are intended for the sole benefit of the Banks and may be waived on their behalf in whole or in part and with or without further condition by the Agent (acting if it thinks necessary on the basis of instructions from an Instructing Group) in respect of the first or any subsequent Utilisation hereunder without prejudicing the right of the Agent to require fulfilment of such conditions and provisions in whole or in part in respect of any subsequent Utilisation.

## **9. PREPAYMENT, CANCELLATION AND TERMINATION**

- 9.1 Each Bank's relevant Commitment and, thereby, the Total Commitments (and, for the avoidance of doubt, the Company shall ensure that the total of the Outstandings) shall (if not before pursuant to this Agreement) be reduced to nil on the Final Termination Date.
- 9.2 The Company may prepay any Advance utilised by it or any part thereof in at least a Round Amount, without premium or penalty at any time if it gives to the Agent not less than five business days' prior written notice of the Advance (or part thereof) to be prepaid and the date and amount of the prepayment. Any such prepayment must be accompanied by accrued interest on the amount prepaid and any other sum then due under Clause 20 in respect of the amount being prepaid.
- 9.3 The Company may at any time, and from time to time, cancel the whole or part of the Total Commitments by giving to the Agent not less than five business days' prior written notice to that effect, specifying the date on which such cancellation is to take effect and the amount or amounts of the proposed cancellation or cancellations thereof, provided that:

- (a) any partial cancellation shall be in a Round Amount; and
- (b) no such cancellation shall be effective if, as a result thereof, the Total Commitments, as the case may be, would be reduced to an amount which would be less than the Outstandings under the relevant Facility at the time the cancellation is to come into effect.

Any such cancellation shall be taken to reduce the relevant Commitment of each of the Banks rateably.

- 9.4
- (a) If an Obligor is required to make a Tax Payment or any Bank claims indemnification or payment from the Company under Clause 11 then the Company may, at any time thereafter and by giving not less than 5 business days' irrevocable notice to the Agent, cancel that Bank's Commitment under the Facility, or, as the case may be, any part thereof, whereupon such Bank shall cease to be obliged to make Advances and its Commitments shall be reduced to zero; and
  - (b) if the Company gives a notice of cancellation pursuant to paragraph (a) above, it shall at the same time give notice to the Agent of its intention to prepay all outstanding Advances made by the relevant Bank together with accrued interest thereon upon such same date as may be specified in such notice of cancellation, which notice shall be irrevocable and shall oblige the Company to make the payments and prepayments in question on that date together with all other sums due on that date in respect of the Advances.

9.5 For the purposes of this Clause:

a **change of control** occurs if any person or group of connected persons gains control of the Company;

**connected persons** shall be construed in accordance with Section 839 of the Taxes Act; and

**control** has the meaning given to it in section 416 of the Taxes Act.

- (a) The Company must promptly notify the Agent if it becomes aware of any change of control.
- (b) After a change of control, if any Bank so requires and notifies the Agent, the Agent must, by notice to the Company:
  - (i) cancel the Commitment of that Bank; and
  - (ii) declare the participation of that Bank in all outstanding Advances, together with accrued interest and all other amounts accrued under the Finance Documents, to be immediately due and payable.

Any such notice will take effect in accordance with its terms.

- 9.6
- (a) In this subclause, **net proceeds** means any cash amount received by any member of the Group pursuant to any Additional Financing less all Taxes, fees, commissions and costs and expenses properly incurred in connection with that Additional Financing.
  - (b) Subject to paragraph 1(d) of Schedule 5 (Financial covenants and relevant definitions), if any member of the Group enters into any Additional Financing after

the date of this Agreement, the Company must apply an amount equal to the net proceeds of that Additional Financing towards prepaying the Advances and cancelling the Commitments in an amount equal to the net proceeds of the Additional Financing.

- (c) Any prepayment under this subclause must be made on or before the last date of the Term of the Advance to be prepaid in which the Additional Financing was closed or effected.

9.7 Each notice of cancellation given pursuant to this Clause 9 shall be irrevocable and shall specify the date upon which such cancellation is to take effect.

9.8 If, at any time:

- (a) the Commitments of any Bank are cancelled or reduced, in aggregate, to zero; and
- (b) all obligations (actual or contingent) and all indebtedness due or owing to such Bank by the Obligors hereunder has been satisfied in full,

then such Bank shall cease to be a Bank hereunder and shall cease to be a party to this Agreement.

9.9 On the last day of the Availability Period, the relevant undrawn Commitment of each Bank shall be (if not already) cancelled and reduced to zero.

9.10 Amounts cancelled under this Agreement may not be redrawn.

9.11 Amounts voluntarily prepaid under the Facility may be redrawn. Any mandatory or involuntary prepayment of an Advance may not be reborrowed.

9.12 A Borrower may not prepay an Advance in whole or in part otherwise than in accordance with this Clause 9.

## 10. TAXES

### 10.1 General

In this Clause:

**Qualifying Bank** means a Bank which is:

- (a) a U.K. Bank; or
- (b) a Treaty Bank;

**Tax Credit** means a credit against any Tax or any relief or remission for Tax (or its repayment);

**Treaty Bank** means a Bank which is:

- (a) resident (as defined in the appropriate double taxation agreement) in a country with which the U.K. has a double taxation agreement giving residents of that country full exemption from U.K. taxation on interest; and

- (b) does not carry on a business in the U.K. through a permanent establishment with which the payment is effectively connected;

**U.K. Bank** means a Bank which is:

- (a) within the charge to U.K. corporation tax in respect of, and beneficially entitled to, a payment of interest on an Advance made by a person that was a bank for the purposes of section 349 of the Taxes Act (as currently defined in section 840A of the Taxes Act) at the time the Advance was made; or
- (b) a U.K. Non-Bank; and

**U.K. Non-Bank** means:

- (a) a company resident in the U.K. for U.K. tax purposes;
- (b) a partnership, each member of which is a company resident in the U.K. for U.K. tax purposes or a company not resident in the U.K. for U.K. tax purposes but which carries on a trade in the U.K. through a branch or agency and brings into account in computing its chargeable profits (for the purpose of section 11(2) of the Taxes Act) the whole of any share of interest payable to it under this Agreement which falls to it by reason of sections 114 and 115 of the Taxes Act; or
- (c) a company not resident in the U.K. for U.K. tax purposes which carries on a trade in the U.K. through a branch or agency and brings into account interest payable to it under this Agreement in computing its chargeable profits for the purpose of section 11(2) of the Taxes Act,

which, in each case, is beneficially entitled to interest payable to it under this Agreement and which has provided to the Company and not retracted confirmation of one of the above in accordance with this Agreement.

## **10.2 Tax gross-up**

- (a) Each Obligor must make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) If:
  - (i) a Bank is not, or ceases to be, a Qualifying Bank; or
  - (ii) an Obligor or a Bank is aware that an Obligor must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction),

it must promptly notify the Agent. The Agent must then promptly notify the affected Parties.

- (c) Except as provided below, if a Tax Deduction is required by law to be made by an Obligor or the Agent, the amount of the payment due from the Obligor will be increased to an amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) Except as provided below, an Obligor is not required to make an increased payment under paragraph (c) above for a Tax Deduction in respect of the tax imposed by the U.K. to a Bank

that is not, or has ceased to be, a Qualifying Bank in excess of the amount that the Obligor would have had to pay had the Bank been, or not ceased to be, a Qualifying Bank.

- (e) Paragraph (d) above will not apply if the Bank has ceased to be a Qualifying Bank by reason of any change after the date it became a Bank under this Agreement in (or in the interpretation, administration, or application of) any law or double taxation agreement or any published practice or concession of any relevant taxing authority.
- (f) An Obligor is not required to make an increased payment under paragraph (c) above for a Tax Deduction in respect of tax imposed by the U.K. to a Bank which is a U.K. Non-Bank if:
  - (i) the Board of the Inland Revenue has given (and not revoked) a direction under section 349C of the Taxes Act (as that provision has effect on the date on which the relevant Bank became a party to this Agreement) which relates to the relevant payment;
  - (ii) that Obligor has notified that Bank of the precise terms of that direction; and
  - (iii) a Tax Deduction is required to be made from the relevant payment solely because the Board of the Inland Revenue has given (and not revoked) that direction.
- (g) An Obligor is not required to make an increased payment to a Bank under paragraph (c) above for a Tax Deduction in respect of the tax imposed by the U.K. if that Bank is a Treaty Bank and the Obligor making the payment is able to demonstrate that the Tax Deduction would not have been required if the Bank had complied with its obligations under paragraph (j) below.
- (h) If an Obligor is required to make a Tax Deduction, that Obligor must make the minimum Tax Deduction allowed by law and must make any payment required in connection with that Tax Deduction within the time allowed by law.
- (i) Within 30 days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Obligor making that Tax Deduction or payment must deliver to the Agent for the relevant Finance Party evidence satisfactory to that Finance Party (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.
- (j) A Treaty Bank must co-operate with each Obligor by using its reasonable endeavours to complete any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction.
- (k) If a Bank is expressed to be a U.K. Non-Bank when it becomes a party to this Agreement as a Bank, it will be deemed to have confirmed its status for the purpose of the definition of U.K. Non-Bank. A U.K. Non-Bank must promptly notify the Company and the Agent of any change to its status that may affect any confirmation made by it.

### 10.3 Tax indemnity

- (a) Except as provided below, the Company must indemnify a Finance Party against any loss or liability which that Finance Party (in its absolute discretion) determines will be or has been suffered (directly or indirectly) by that Finance Party for or on account of Tax in relation to a payment received or receivable (or any payment deemed to be received or receivable) under a Finance Document.

- (b) Paragraph (a) above does not apply to any Tax assessed on a Finance Party under the laws of the jurisdiction in which:

- (i) that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party has a Facility Office and is treated as resident for tax purposes; or
- (ii) that Finance Party'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 by that Finance Party. However, any payment deemed to be received or receivable, including any amount treated as income but not actually received by the Finance Party, such as a Tax Deduction, will not be treated as net income received or receivable for this purpose.

- (c) A Finance Party making, or intending to make, a claim under paragraph (a) above must promptly notify the Company of the event which will give, or has given, rise to the claim.

#### **10.4 Tax Credit**

If an Obligor makes a Tax Payment and the relevant Finance Party (in its absolute discretion) determines that:

- (a) a Tax Credit is attributable to that Tax Payment; and
- (b) it has used and retained that Tax Credit,

the Finance Party must pay an amount to the Obligor which that Finance Party determines (in its absolute discretion) will leave it (after that payment) in the same after-tax position as it would have been if the Tax Payment had not been required to be made by the Obligor.

### **11. INCREASED COSTS**

- 11.1 If by reason of the introduction of any, or any change in, law or in its interpretation or administration (by the Bank of England or by any central bank or other fiscal, monetary or other regulatory authority) and/or by reason of the compliance with any request from or requirement of the Bank of England or any central bank or other fiscal, monetary or other regulatory authority (whether or not having the force of law but, if not having the force of law, only if compliance with the request or requirement is in accordance with the practice of the Bank concerned or its holding company) in each case after the date of this Agreement:

- (a) a Bank or its holding company incurs a cost which it had not previously incurred (including the cost of complying with any reserve, capital, special deposit, solvency, risk, liquidity, cash or other requirement) as a result of the Bank having entered into or performing its obligations under this Agreement or assuming or maintaining its Commitment (if any) under this Agreement or having outstanding to it Advances or unpaid sums hereunder;
- (b) a Bank or its holding company is unable to obtain the rate of return on all or any of its capital which it would have been able to achieve but for the Bank's Commitment or its making of Advances (including, without limitation, due to a request or requirement which affects the manner in or the extent to which a Bank or its holding company allocates capital resources to the Bank's obligations hereunder);

- (c) there is any other increase in the cost to a Bank or its holding company of the Bank funding or maintaining its participation in the Facilities or the making of Advances; or
- (d) a Bank or its holding company becomes liable to make any payment on account of Tax on or calculated by reference to the amount of Advances made or to be made by the Bank hereunder or to any sum received or receivable by it hereunder,

then the Company shall (to the extent that it has not already indemnified or made payment to the relevant Bank in respect thereof pursuant to Clause 10) from time to time on demand by the Agent, pay to the Agent for the account of that Bank amounts equal to or sufficient to compensate for, as the case may be:

- (i) such cost not previously incurred;
- (ii) such reduction in the rate of return (or such proportion of such reduction as is attributable to its obligations or its making of Advances);
- (iii) such increased cost (or such proportion of such increased cost as is attributable to its participation in the Facilities or its funding or maintaining Advances); or
- (iv) such liability.

- 11.2 A Bank intending to make a claim pursuant to Clause 11.1 shall promptly after such Bank becomes aware of the circumstances giving rise to such claim, deliver to the Company through the Agent a certificate to that effect specifying the event by reason of which it is entitled to make such a claim, the amount of such claim and the basis and computation of the claim (but nothing in this Clause 11.2 shall oblige any Bank to disclose any information relating to the way in which it employs its capital or arranges its affairs). Such a claim may be made before, on or after the repayment of any Advance to which it relates.
- 11.3 Notwithstanding the foregoing provisions of this Clause 11, no Bank shall be entitled to make any claim under this Clause 11 in respect of any cost, increased cost, reduction in the rate of return or liability as is referred to in Clause 11.1 to the extent that the same is compensated for by the Mandatory Cost on an Advance or is Tax on the overall net income of a Bank, or arises as a result of deduction or withholding of Tax which is already compensated for by Clause 10.2(c) or which would have been compensated but for the operation of Clause 10.2(d).

## 12. ILLEGALITY

If at any time after the date of this Agreement it becomes unlawful or contrary to any request from or requirement of any fiscal, monetary or other regulatory authority (whether or not having the force of law but, if not having the force of law, only if compliance with the request or requirement is in accordance with the practice of the Bank concerned) for a Bank to make, fund or allow to remain outstanding all or any of the Advances made or to be made by it hereunder then that Bank shall, promptly after becoming aware of the same, deliver to the Company through the Agent a certificate to that effect and, unless such illegality is avoided in accordance with Clause 13:

- (a) such Bank shall not thereafter be obliged to make Advances and the amount of its Commitments shall be reduced to zero; and



- (b) if such unlawfulness relates to outstanding Advances and the Agent (on behalf of such Bank) so requires, the Company shall (by no later than the latest date by which the relevant law requires that the same be repaid) repay or procure the repayment of the outstanding Advances made by such Bank hereunder together with accrued interest thereon.

### **13. MITIGATION**

13.1 If, in respect of any Bank, circumstances arise which would or would upon the giving of notice result in:

- (a) the reduction of any of its Commitments to zero pursuant to Clause 12(a); or
- (b) a Company being required to make a Tax Payment; or
- (c) a claim for indemnification or payment pursuant to Clause 11 or Clause 12(b),

then (but without prejudice to such Bank's rights under the provisions mentioned in paragraphs (a) to (c) above):

- (i) such Bank shall promptly upon becoming aware of the same notify the Agent thereof and, in consultation with the Agent and the Company and to the extent that it can do so without prejudice to its own position, take reasonable steps reasonably acceptable to the Company to mitigate the effects of such circumstances including the transfer of its Facility Office or the transfer of its rights and obligations hereunder to another financial institution acceptable to the Company and willing to participate in the Facilities; Provided that such Bank shall be under no obligation to take any such action if, in the reasonable opinion of such Bank, to do so would or might have any adverse effect upon its business, operations or financial condition; and
- (ii) the Agent and the Banks shall, upon request of the Company, enter into negotiations in good faith with the Company in order to consider what action, if any, can be taken with a view to re-arranging the Facilities on a basis which will mitigate the effects of such circumstances.

13.2 No term of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (Tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it in respect of Tax or to the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (Tax or otherwise) or any computation in respect of Tax.

### **14. MARKET DISRUPTION**

14.1 If, in relation to an Advance, the Agent is unable to make any determination of LIBOR required to be made by it pursuant to this Agreement by reason of the failure or inability of all (or all but one) of the Reference Banks to supply the requisite quotations, then the Agent shall promptly notify the Company and the Banks of such event and the amount of interest payable

in respect of such Advance during its Term shall be determined in accordance with the following provisions of this Clause 14.

- 14.2 The Agent (on behalf of and after consultation with the Banks) shall, promptly after giving the notice referred to in Subclause 14.1, negotiate in good faith with the Company with a view to agreeing an alternative basis for calculating the interest payable on the relevant Advance.
- 14.3 If such an alternative basis as is mentioned in Subclause 14.2 is so agreed in writing by the Agent (on behalf of and with the consent of all the Banks) and the Company before the relevant Utilisation Date, it shall take effect and be binding upon each party hereto in accordance with its terms.
- 14.4 If such alternative basis is not so agreed before the relevant Utilisation Date pursuant to Subclause 14.2, any such Advance made by a Bank shall bear interest during its Term at the rate per annum determined by the Agent to be the sum of:
  - 14.5 (a) the cost (including, if applicable, the Mandatory Cost) to such Bank (as certified by it to the Agent and expressed as a rate per annum), of funding such Advance from whatever source it may reasonably select; and
  - (b) the Margin thereon.
- 14.6 The Agent (on behalf of all the Banks) agrees to consult with the Company at least once every 30 days after the occurrence and during the continuance of the circumstances specified in the foregoing provisions of this Clause 14 with a view to reverting when practical to the normal provisions for the determination of the rates of interest applicable to Advances hereunder.

## **15. GUARANTEE**

- 15.1 Each Guarantor jointly and severally and irrevocably and unconditionally:
  - (a) as principal obligor, guarantees to each Finance Party prompt performance by each Borrower of all its payment obligations under the Finance Documents;
  - (b) undertakes with each Finance Party that whenever a Borrower does not pay any amount when due under or in connection with any Finance Document, it shall forthwith on demand by the Agent pay that amount as if it instead of the relevant Borrower were expressed to be the principal obligor; and
  - (c) indemnifies each Finance Party on demand against any loss or liability suffered by it if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal.
- 15.2 This Guarantee is a continuing guarantee and will extend to the ultimate balance of all sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.
- 15.3 (a) Where any discharge (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise without limitation, the liability of each Guarantor under this Clause 15 shall continue as if the discharge or arrangement had not occurred.

- (b) Each Finance Party shall be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred.
- 15.4 The obligations of each Guarantor under this Clause 15 will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Clause 15 or prejudice or diminish those obligations in whole or in part, including (whether or not known to it or any Finance Party):
- (a) any time or waiver granted to, or composition with, the Company or other person;
  - (b) the release of any 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, the Company 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 powers, authority or legal personality of or dissolution or change in the members or status of the Company or any other person;
  - (e) any variation (however fundamental) or replacement of a Finance Document or any other document or security so that references to that Finance Document in this Clause 15 shall include each variation or replacement;
  - (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security, to the intent that each Guarantor's obligations under this Clause 15 shall remain in full force and its guarantee be construed accordingly, as if there were no unenforceability, illegality or invalidity;
  - (g) any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of the Company or any other person under a Finance Document resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order so that each such obligation shall for the purposes of each Guarantor's obligations under this Clause 15 shall be construed as if there were no such circumstance.
- 15.5 Each Guarantor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under this Clause 15.
- 15.6 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, each Finance Party (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 that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and 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 that Guarantor's liability under this Clause 15.

15.7 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, no Guarantor will, after a claim has been made or by virtue of any payment or performance by it under this Clause 15:

- (a) be subrogated to any rights, security or moneys held, received or receivable by any Finance Party (or any trustee or agent on its behalf) or be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of that Guarantor's liability under this Clause 15;
- (b) claim, rank, prove or vote as a creditor of the Company or its estate in competition with any Finance Party (or any trustee or agent on its behalf); or
- (c) receive, claim or have the benefit of any payment, distribution or security from or on account of the Company, or exercise any right of set-off as against the Company,

unless the Agent otherwise dictates. Each Guarantor shall hold in trust for and forthwith pay or transfer to the Agent for the Finance Parties any payment or distribution or benefit of security received by it contrary to this Clause 15.7 or as directed by the Agent.

15.8 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 Finance Parties 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.

15.9 This guarantee is in addition to and is not in any way prejudiced by any other security now or hereafter held by any Finance Party.

## 16. REPRESENTATIONS AND WARRANTIES

16.1 Each Obligor represents and warrants to each Finance Party that:

- (a) in the case of a Guarantor that it is a limited liability company and in the case of a Borrower that it is a public limited company, each duly incorporated and validly existing under the laws of England, having the power and the full authority and right to own its properties, assets and revenues and to carry on its business as it is now being conducted;
- (b) it has the power to enter into and perform in accordance with the Finance Documents to which it is or will be a party and the transactions and other matters contemplated by the Finance Documents and all necessary action has been taken to authorise such

entry into and performance of the Finance Documents and the transactions and matters contemplated thereby;

- (c) each Finance Document to which it is or will be a party constitutes, or when executed in accordance with its terms will constitute, its legal, valid and binding obligations and (subject to any limitations imposed by general principles of equity or by laws relating to bankruptcy, insolvency, liquidation, reorganisation or other laws of general application) is enforceable in accordance with its terms;
- (d) the entry into and performance of the Finance Documents to which it is or will be a party by it, the utilisation of the Facilities by it hereunder and the use of the proceeds thereof will not conflict with or exceed (i) any applicable law or regulation or any official or judicial order, (ii) its Memorandum and Articles of Association, (iii) any limits on its borrowing or other powers or the exercise of such powers by its directors or other officers, or (iv) any agreement or document to which it is a party or which is binding upon it or upon any of its undertaking, property, assets or revenues, nor will the same result in the creation or imposition of any Encumbrance on any of its property, assets or revenues;
- (e) no event has occurred and is subsisting which constitutes a Default;
- (f) all authorisations, approvals, consents, licences, exemptions, filings, registrations, notarisations and other matters, official or otherwise, required by the laws of England or the laws otherwise in force in the UK in connection with its entry into and performance of, and the validity and enforceability of the Finance Documents and the transactions contemplated by the Finance Documents have been obtained or effected and are in full force and effect;
- (g)
  - (i) in the case of the Company, the Original Audited Accounts:
    - (A) were prepared and audited in accordance with and complied with the Companies Act 1985 and all applicable standards, principles and practices generally accepted in the United Kingdom, consistently applied; and
    - (B) gave a true and fair view of the assets, liabilities and the state of affairs of the Group as at the date to which they were drawn up and of the consolidated profits and losses of the Group for the financial year ended on that date;
  - (ii) since the date to which the Original Audited Accounts were drawn up and up to the date of the first Utilisation hereunder:
    - (A) the Group's business and activities have been carried on in the ordinary and usual course; and
    - (B) there has been no material adverse change in the financial or trading position or prospects of the Group;
- (h)
  - (i) the accounts most recently submitted to the Agent under Clause 17.1(a)(i) do and will (when taken with the notes thereto) give a true and fair view of the state of affairs of the Company and the consolidated state of affairs of the Company and its subsidiaries as at the date to which they are made up; and

- (ii) the accounts most recently submitted to the Agent under Clause 17.1(a)(ii) do and will (when taken with the notes thereto) fairly present the financial condition of the Company and the consolidated financial condition of the Company and its subsidiaries as at the date to which they are made up;
  - (i) no litigation, arbitration or administrative proceedings are current or pending or (having made reasonable enquiries) to the Obligors' knowledge, threatened or expected and which would reasonably be expected to have a material adverse effect on their ability to perform their obligations under the Finance Documents;
  - (j) to the best of each Obligor's knowledge and belief and after having made all reasonable enquiries, all written factual information provided to the Agent and the Banks pursuant to the Finance Documents by or on behalf of each Obligor was true and correct in all material respects and not misleading when so provided (save as otherwise disclosed to the Agent by or on behalf of the Obligor at or about the time it was given) and nothing has occurred as at the date of this Agreement which would make that information incorrect or misleading in any material respect;
  - (k) the indebtedness of each Obligor under this Agreement ranks and will at all times rank at least *pari passu* with all its other unsubordinated and unsecured indebtedness, with the exception of indebtedness mandatorily preferred by law;
  - (l) no Encumbrances (other than as permitted to subsist for the time being by Clause 17.2(d)) exists over all or any of the present or future undertaking, revenues or assets of the Company or any of its subsidiaries; and
  - (m) no Advance will be used for any purpose which might be unlawful including, without limitation to the foregoing, which might constitute or result in the giving of financial assistance (within the meaning of section 151 of the Companies Act 1985).
- 16.2 The representations and warranties set out in Clause 16.1 shall survive the execution of this Agreement and the making of each Advance hereunder. Such representations and warranties (excluding those in paragraphs (e) and (g) above) shall be deemed to be repeated on the date of delivery of each Utilisation Request hereunder, on the date of the making of each Advance hereunder and on the date that an Additional Guarantor or an Additional Borrower becomes an Obligor, with reference to the facts and circumstances then subsisting, as if made at each such time, save that in the repetition of the representation and warranty in paragraph (h) above, the same shall refer to the accounts of the Company and the consolidated accounts of the Company and its subsidiaries most recently delivered to the Agent pursuant to Clause 17.
- 16.3 The representations and warranties in Clause 16.1(c) shall (where applicable) be subject, as to matters of law only, to the qualifications in the opinion of Allen & Overy LLP (referred to in paragraph 9 of Schedule 2 to this Agreement).
- 17. COVENANTS**
- 17.1 The Company hereby undertakes that, from the date of this Agreement and so long as there exists any Commitment by the Banks hereunder and/or the Obligors remains under any actual or contingent liability hereunder:
- (a) it will furnish to the Agent:
    - (i) (in sufficient copies for each of the Banks) as soon as practicable (and in any event within 120 days after the end of each of its financial years) the audited

accounts of the Company for that year (including its balance sheet) as at the end of such year and the audited consolidated accounts of the Company and its subsidiaries for that year (including the consolidated balance sheet at the end of such year and the consolidated profit and loss account in respect of such year);

- (ii) (in sufficient copies for each of the Banks) as soon as available (and in any event by no later than the date prescribed by law) the audited accounts of each Obligor (other than the Company) for each of its financial years (including its balance sheet and the profit and loss account in respect of such year) as at the end of such year;
- (iii) (in sufficient copies for each of the Banks) as soon as practicable (and in any event within 60 days after the end of the first half of each of its financial years) the unaudited interim accounts of the Company for such half year (including a balance sheet) and the unaudited consolidated results of the Company and its subsidiaries for such half-year (including a consolidated balance sheet and profit and loss account in respect of such half year);
- (iv) promptly, all notices or other documents despatched by the Company to its shareholders or its creditors generally (or any class thereof);
- (v) promptly, such further information in the possession or control of the Company or available to the Company from its subsidiaries, regarding the financial condition, operations, undertaking, properties, assets and revenues of the Company and its subsidiaries, as the Agent may from time to time reasonably request (and in the case of a Securitisation Vehicle, limited to information which is or is required to be provided to holders of debt securities issued as part of the Permitted Securitisation); and
- (vi) promptly upon becoming aware of them, details of any litigation, arbitration or administrative proceedings which are current or pending or, to an Obligor's knowledge, threatened or expected and which would reasonably be expected to have a material adverse effect on an Obligor's ability to perform its obligations under the Finance Documents.

All accounts required under this Clause 17.1(a) shall:

- (A) be prepared in accordance with generally accepted accounting principles and practices in the United Kingdom and consistently applied with those applied in the preparation of the Original Audited Accounts unless, in relation to any set of accounts, it notifies the Agent that there has been a change in generally accepted accounting principles and practices in the United Kingdom, or the accounting practices or reference periods and its auditors (or, if appropriate, the auditors of the relevant Obligor) deliver to the Agent:
  - I. a description of any change necessary for those accounts to reflect the generally accepted accounting principles and practices and reference periods upon which the Original Audited Accounts were prepared; and
  - II. sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Banks to

determine whether Clause 17.1(b) has been complied with and make an accurate comparison between the financial position indicated in those accounts and the Original Audited Accounts; and

- (B) comply with all applicable laws and (when taken with the notes thereto) shall fairly present, as the case may be, the financial condition of the relevant Obligor and the consolidated financial condition of the Company and its subsidiary undertakings as at the date thereof.

If the Company notifies the Agent of a change in accordance with subparagraph (A) above, then the Company and the Agent (acting on the instructions of the Instructing Group) shall enter into negotiations in good faith with a view to agreeing:

- I. whether or not the change might result in any material alteration in the commercial effect of any of the terms of this Agreement; and
- II. if so, any amendments to this Agreement which may be necessary to ensure that the change does not result in any material alteration in the commercial effect of those terms,

and, if any amendments are agreed, they shall take effect and be binding on each of the Parties in accordance with their terms.

If no agreement is reached under subparagraph II. above on the amendments to the Agreement within 30 days of that notification of change (or within such period as the Company and the Agent (acting on the instructions of the Instructing Group (acting in good faith)) agree), the Company must supply with each set of its accounts another set of its accounts prepared on the same basis as the Original Audited Accounts.

Any reference in this Agreement to those accounts shall be construed as a reference to those accounts as adjusted to reflect the basis upon which the Original Audited Accounts were prepared.

- (b) it will comply with the covenants set forth in Schedule 5;
- (c) it will procure that (A) it does not have outstanding any Borrowings due to any Securitisation Vehicle and (B) none of its subsidiaries has outstanding any Borrowings due to persons other than members of the Group (excluding any Securitisation Vehicle), in each case, excluding for this purpose:
  - (i) any Borrowings incurred under the Finance Documents;
  - (ii) any Borrowings incurred by a Guarantor;
  - (iii) any Borrowings under the Bridge Facility to the extent not refinanced under this Agreement;
  - (iv) any Borrowings incurred in connection with the Permitted Securitisation;



- (v) any Borrowings which are on an arm's length basis and have been incurred in the ordinary course of such subsidiary's business and are of an aggregate amount, capitalised (where appropriate) in accordance with generally accepted accounting principles and practices in the UK, no greater than an aggregate amount of £30,000,000;
  - (vi) any cross-guarantee and set-off arrangements entered into prior to the date of this Agreement with Lloyds TSB Bank PLC in the ordinary course of its banking arrangements; or
  - (vii) any other Borrowings described in Schedule 8 (and guarantees of any such Borrowings) provided the principal amount thereof is not increased after the date of this Agreement; and
- (d) it will use the Facilities for the purposes set forth in Clause 3;
  - (e) other than in respect of a disposal pursuant to Clause 17.2(e)(vii) permitting consideration to be deferred in respect of a disposal referred to in that Subclause, any transaction (other than the GK Securitisation Loan or the GK Securitisation Security) between a member of the Group which is not a Securitisation Vehicle and a Securitisation Vehicle will be on arm's length commercial terms for fair value; and
  - (f) no member of the Group (other than a Securitisation Vehicle) may invest in any business or any shares or other securities in any Securitisation Vehicle other than by way of the GK Securitisation Loan.

17.2 Each Obligor hereby undertakes that, from the date of this Agreement and for so long as there exists any commitment by the Banks hereunder and/or any Obligor remains under any actual or contingent liability hereunder:

- (a) (save for any Default with respect to the non-payment of any sum when due under any Finance Document) it will notify the Agent of any Default forthwith upon learning of its occurrence and the steps being taken to remedy the same and it will notify the Agent promptly of the steps it is taking to remedy any Default with respect to the non-payment of any sum due under any Finance Document;
- (b) it will obtain and promptly renew from time to time (and will promptly furnish certified copies thereof to the Agent) all such authorisations, approvals, consents, licences and exemptions as may be required under any applicable law or regulation to enable the Company to utilise the Facilities under this Agreement and to perform its obligations under any Finance Document or as may be required for the effectiveness, validity or enforceability of any Finance Document and shall comply with all material terms of the same;
- (c) it will ensure that its obligations under any Finance Document do and will rank at least *pari passu* with all its other present and future unsecured and unsubordinated obligations, other than those obligations which are or become mandatorily preferred by law;
- (d) it will ensure that neither it nor any of its subsidiaries will create or permit to exist any Encumbrance over the whole or any part of its or their respective undertaking, property, assets or revenues from time to time, except for:

- (i) rights of set-off or of netting (whether arising by contract or by the operation of law and including any charge thereby created) in favour of the Company's or its subsidiaries' bankers with respect to cleared credit balances standing from time to time to the credit of accounts maintained by it or such subsidiaries from time to time with such bankers in connection with the provisions of facilities by such bankers provided the aggregate amount of indebtedness against which such credit balances may be set off, netted against or charged shall not exceed £10,000,000 (or its equivalent in other currencies);
- (ii) liens arising by operation of law (or by an agreement evidencing the same) to the extent that the same are discharged within the agreed period of credit (not exceeding 30 days), agreed at the time they arose;
- (iii) any Encumbrances arising in favour of the Banks pursuant to this Agreement;
- (iv) any Encumbrances for Tax which is due for the time being, provided the same arises by operation of law, without default and is discharged within 30 days of the same arising;
- (v) pledges of goods, the related documents of title and/or other related documents arising or created in the ordinary course of its business as security only for indebtedness to a bank or financial institution directly relating to the goods or documents on or over which that pledge exists and where such indebtedness does not exceed £10,000,000 (or its equivalent in other currencies) in aggregate at any time;
- (vi) any Encumbrances arising out of title retention provisions in a supplier's standard conditions of supply of goods acquired by the relevant purchaser in the ordinary course of its business;
- (vii) any Encumbrances created by a subsidiary of the Company other than a Guarantor in favour of the Company or any other member of the Group whilst such company remains a wholly owned subsidiary of the Company;
- (viii) any Encumbrance of a member of the Group securing a Borrowing described in Part 2 of Schedule 8 to the extent that it secures an aggregate principal, capital or nominal amount not exceeding such amount;
- (ix) any other Encumbrance created or outstanding with the prior consent of an Instructing Group;
- (x) an Encumbrance on any asset but only if simultaneously with the creation of that Encumbrance the obligations of the Obligors under the Finance Documents are at least equally and rateably secured by a comparable Encumbrance on that or other assets acceptable to the Instructing Group;
- (xi) any Encumbrance granted in connection with the Permitted Securitisation (including the GK Securitisation Security);
- (xii) any Encumbrance granted in connection with the Sale and Leaseback Assets; and

- (xiii) any other Encumbrance created or outstanding on or over assets of any member of the Group (including, without limitation, Encumbrances described in any of the foregoing exceptions to the extent they exceed or do not comply with any limitations or conditions in those exceptions) provided that the aggregate outstanding principal, capital or nominal amount secured by all Encumbrances under this exception on or over assets of members of the Group must not at any time exceed 15 per cent. of Consolidated Tangible Fixed Assets as shown in the Latest Accounts;
- (e) it will not, and will procure that its subsidiaries will not, sell, transfer, lend, dispose of or otherwise cease to exercise direct control over (such transactions being hereunder referred to as **disposals**) its or their present or future undertaking, assets or revenues, whether by one or a series of transactions related or not, except for:
  - (i) disposals of assets in the ordinary course of the relevant company's business on an arm's length basis;
  - (ii) disposals of assets where the aggregate value of such assets disposed of in any financial year of the Company (as ascribed thereto in the audited accounts of the Company most recently delivered to the Agent in accordance with Clause 17.1(a)(i)) does not exceed 10 per cent. of the total consolidated value of the tangible assets of the Company and its subsidiaries, as shown in the audited accounts of the Company most recently delivered to the Agent in accordance with Clause 17.1(a)(i);
  - (iii) disposals with the consent of an Instructing Group;
  - (iv) the payment of cash in the ordinary course of the relevant company's business on an arm's length basis;
  - (v) the payment of lawful dividends by the Company and its subsidiaries to their respective shareholders;
  - (vi) from a member of the Group (other than an Obligor) to another member of the Group (other than a Securitisation Vehicle);
  - (vii) a disposal made for fair value by a member of the Group to a Securitisation Vehicle in connection with the Permitted Securitisation provided that a member of the Group who makes a disposal to a Securitisation Vehicle is permitted to leave outstanding the consideration for that disposal for a period of up to 10 days;
  - (viii) payments made by it under any Finance Document or under any other Borrowings permitted under any Finance Document;
  - (ix) disposals of assets made by one wholly owned subsidiary of the Company other than a Guarantor to another wholly owned subsidiary of the Company provided that if, in any case where any such disposal was not on an arm's length basis or for full consideration, the transferee company ceases at any time to be a wholly owned subsidiary of the Company it shall retransfer the asset or assets the object of such disposal to another wholly owned subsidiary of the Company or the Company;
  - (x) any loan, provided such loan is either:

- (A) on an unsubordinated basis, made by the Company to one of its subsidiaries (other than a Securitisation Vehicle); or
  - (B) the GK Securitisation Loan;
- (xi) disposals of assets made by any subsidiary of the Company to the Company or a Guarantor (other than for a consideration in excess of its normal commercial price); and
- (xii) disposals of assets made by any dormant subsidiary of the Company to another subsidiary of the Company;
- (f) it will procure that no substantial change is made to the general nature of the business of the Group from that carried on at the date of this Agreement (taking account of the Permitted Securitisation), whether as a result of any subsequent acquisition or otherwise;
- (g) it shall and it shall procure that each of its subsidiaries (other than a Securitisation Vehicle) will:
  - (i) obtain and comply in all material respects with (A) the terms and conditions of all Environmental Licences applicable to it and (B) all other applicable Environmental Law which, if not obtained or complied with, is reasonably likely to have a material adverse effect;
  - (ii) promptly upon receipt of the same, notify the Agent of any claim, notice or other communication served on it in respect of:
    - (A) any liability on it to clear up any contamination; or
    - (B) any alleged breach of any Environmental Law,
 which is likely to have a material adverse effect; and
  - (iii) ensure that no Dangerous Substance is used, disposed of, generated, stored, transported, dumped, deposited, buried or emitted at, on, from or under any premises (whether or not owned, leased, occupied or controlled by the Company) in circumstances where this could reasonably be expected to result in a liability on the Company which is likely to have a material adverse effect; and
- (h) it shall, and it shall procure that each of its subsidiaries (other than a Securitisation Vehicle) will, comply in all respect with all laws to which it is subject where the failure to do so is reasonably likely to have a material adverse effect.
- 17.3 (a) Subject to paragraph (b) below, each Obligor must promptly on the request of any Finance Party supply to that Finance Party any documentation or other evidence which is reasonably requested by that Finance Party (whether for itself, on behalf of any Finance Party or any prospective new Bank) to enable a Finance Party or prospective new Bank to carry out and be satisfied with the results of all applicable know your client requirements.

- (b) An Obligor is only required to supply any information under paragraph (a) above, if the necessary information is not already available to the relevant Finance Party and the requirement arises as a result of:
- (i) the introduction of any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;
  - (ii) any change in the status of an Obligor or any change in the composition of shareholders of an Obligor where a shareholder is not an Obligor after the date of this Agreement; or
  - (iii) a proposed assignment or transfer by a Bank of any of its rights and/or obligations under this Agreement to a person that is not a Bank before that assignment or transfer.

17.4 (a) Except as provided below, the Company may deliver any information under this Agreement to a Bank by posting it on to an electronic website if:

- (i) the Agent and the Bank agree;
- (ii) the Company and the Agent designate an electronic website for this purpose;
- (iii) the Company notifies the Agent of the address of and password for the website; and
- (iv) the information posted is in a format agreed between the Company and the Agent.

The Agent must supply each relevant Bank with the address of and password for the website.

(b) Notwithstanding the above, the Company must supply to the Agent in paper form a copy of any information posted on the website together with sufficient copies for:

- (i) any Bank not agreeing to receive information via the website; and
- (ii) within 10 business days of request any other Bank, if that Bank so requests.

(c) The Company must promptly upon becoming aware of its occurrence, notify the Agent if:

- (i) the website cannot be accessed;
- (ii) the website or any information on the website is infected by any electronic virus or similar software;
- (iii) the password for the website is changed; or
- (iv) any information to be supplied under this Agreement is posted on the website or amended after being posted.

If the circumstances in sub-paragraphs (i) or (ii) above occur, the Company must supply any information required under this Agreement in paper form until the Agent is satisfied that the circumstances giving rise to the notification are no longer continuing.

- 17.5 Subject to paragraph 1(d) of Schedule 5 (Financial covenants and relevant definitions), no member of the Group may enter into any transaction (other than the Permitted Securitisation) which would be classified as a Class One Transaction under the Listing Rules of the UK Listing Authority.
- 17.6 After completion of the Permitted Securitisation, the Company must promptly notify the Agent (i) that the Permitted Securitisation has occurred and (ii) of the date on which the Permitted Securitisation occurred.

## 18. EVENTS OF DEFAULT

- 18.1 If any of the following events should occur (each being an Event of Default):

- (a) any Obligor does not pay in accordance with any Finance Document any amount which falls due for payment by it under any Finance Document on the due date for payment unless such non-payment was due to an administrative error (whether on the part of an Obligor or a Bank in transferring funds to the Agent) and provided payment is made within two business days after notice of that non-payment has been given to it by the Agent;
- (b) any Obligor fails to comply with any other provision of any Finance Document to which it is or will be a party and such failure, if capable of remedy, continues unremedied (in the case of a Material Obligation of any Obligor) for seven days and (in the case of other obligations) for 21 days after notice from the Agent requiring the same to be remedied (and for the purposes of this Clause the covenants contained in Clauses 17.2(d), 17.1(b) and 17.2(e)(vii) shall be deemed incapable of remedy);
- (c) any written representation, warranty or statement made or repeated in any Finance Document or in any certificate or written statement delivered pursuant to this Agreement proves to be incorrect in a material respect when made or deemed to be made or repeated;
- (d) the Company or any of its subsidiaries (other than a Securitisation Vehicle) fails to make a payment of any other indebtedness in respect of Borrowings (such non-payment either alone or cumulatively exceeding £10,000,000 or the equivalent in another currency) when due or within any applicable grace period in any agreement relating to that indebtedness or any event, act or condition occurs or exists under any document under which any such indebtedness in respect of Borrowings either alone or cumulatively exceeding £10,000,000 is created or evidencing the terms thereof if the effect thereof is to cause the same to become, or to permit any person to declare the same, due prior to its normal maturity, or any Encumbrance or Encumbrances over all or any material part of the undertaking, property, assets or revenues of the Company or any of its subsidiaries (other than any Securitisation Vehicle) securing either alone or in aggregate indebtedness in excess of £10,000,000 (or its equivalent in another currency) is or are enforced unless the same are stayed whilst being contested in good faith and by appropriate proceedings;
- (e) save with the prior written consent of the Agent (such consent not to be unreasonably withheld or delayed), the Company or any of its subsidiaries (other than any Securitisation Vehicle) merges or amalgamates with any person not being the Company or a wholly owned subsidiary of the Company;
- (f) a petition is presented (except where such petition is for a winding up or liquidation and is being contested in good faith by appropriate proceedings by the relevant

company which is the subject thereof and is withdrawn or discharged within 14 days of presentation) or an order is made or an effective resolution is passed for the administration, liquidation or winding up of the Company or any of its subsidiaries (save for a Securitisation Vehicle or any subsidiary which is a dormant company and save for the purpose of and followed by an amalgamation or reconstruction, the terms of which have been previously approved in writing by the Agent (such approval not to be unreasonably withheld or delayed));

- (g) the Company or any of its subsidiaries (other than a Securitisation Vehicle or any such subsidiary which is a dormant company) becomes unable to pay its debts as they fall due or is deemed unable to pay its debts within section 123 of the Insolvency Act 1986, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, its creditors or an encumbrancer takes possession of all or any material part of the undertaking, property, assets or revenues of the Company or any subsidiary of the Company (other than a Securitisation Vehicle or any such subsidiary which is a dormant company) or a trustee, receiver, administrator, liquidator or other person is appointed of or over the Company or any subsidiary of the Company (other than a Securitisation Vehicle or any such subsidiary which is a dormant company) or over all or any material part of the undertaking, property, assets or revenues of the Company or of any subsidiary of the Company (other than a Securitisation Vehicle or any such subsidiary which is a dormant company) save in the case of any such taking possession or any such appointment of either a trustee, receiver, administrator, liquidator or other person which is in respect of indebtedness which whether alone or cumulatively does not exceed £10,000,000 (or the equivalent in another currency) in aggregate or where such taking possession or appointment, as the case may be, is discharged within 14 days and, pending such discharge, is stayed whilst being contested in good faith and by appropriate proceedings;
- (h) any court, authority or tribunal seizes, appropriates, sequesters or compulsorily acquires all or any part of the undertaking, property, assets or revenues of the Company or of a subsidiary of it (other than a Securitisation Vehicle or any such subsidiary which is a dormant company) (other than in respect of indebtedness which whether alone or cumulatively does not exceed £10,000,000 (or the equivalent in another currency) in aggregate or where such enforcement is discharged within 14 days and, pending such discharge, is stayed whilst being contested in good faith and by appropriate proceedings);
- (i) a distress, execution, diligence, attachment or similar process is levied, enforced, imposed or taken out upon or against any of the undertaking, property, assets or revenues of the Company or of any of its subsidiaries (other than a Securitisation Vehicle or any such subsidiary which is a dormant company and other than in respect of indebtedness which whether alone or cumulatively does not exceed £10,000,000 (or the equivalent in another currency) in aggregate or where the same is stayed or suspended and contested in good faith and by appropriate proceedings) or a final judgment for more than £10,000,000 (or its equivalent in another currency) shall be awarded against the Company or any subsidiary of the Company (other than a Securitisation Vehicle or any such subsidiary which is a dormant company) by any court which remains undischarged for 14 days during which execution is not stayed or suspended;
- (j) any condition, event or action is taken, occurs or exists under the laws of any other country or political subdivision thereof, to the jurisdiction to which the Company or any of its subsidiaries (other than a Securitisation Vehicle or any such subsidiary which is a dormant company) or any of its or their respective undertaking, property,

assets or revenues is subject which has a substantially equivalent effect to any of the conditions, events or acts mentioned in paragraphs (e) to (i) (inclusive) of this Clause 18.1;

- (k) at any time it is or becomes unlawful for an Obligor to perform any of its obligations under or otherwise observe any Finance Document unless the Agent determines that the same is immaterial;
- (l) a Guarantor ceases to be a subsidiary of the Company;
- (m) an Obligor repudiates a Finance Document or evidences an intention to repudiate a Finance Document;
- (n) the Permitted Securitisation is not completed before 7th May, 2005 or such other date as the Company and the Instructing Group agree in writing; or
- (o) any other event or series of events and whether related or not (including, without limitation, any material adverse change in the undertaking, property, assets, revenues or other financial condition of the Company or any of its subsidiaries (other than a Securitisation Vehicle)) occurs which would reasonably be expected materially and adversely to affect the ability of the Obligors to comply with their payment obligations under any Finance Document or the ability of the Company to comply with Clause 17.1(b) above,

then, and in any such case and at any time thereafter and so long as the Event of Default in question is continuing, the Agent may and shall, if so instructed by an Instructing Group, by notice to the Company:

- (i) cancel the Commitments, whereupon the same shall be so cancelled and reduced to zero; and/or
- (ii) declare all outstanding Advances to be immediately due and payable, whereupon the same shall become so due and payable, together with accrued interest thereon and all other sums due hereunder, forthwith.

## **19. PAYMENTS AND ACCOUNTS**

- 19.1 All payments to be made by an Obligor under the Finance Documents shall be made in full, without any set-off or counterclaim whatsoever and, save as provided in Clause 10.1 free and clear of any deductions or withholdings, for value on the due date, and to the Agent's account at such office or bank as the Agent may from time to time designate. Save as otherwise provided by this Agreement, such payments shall be for the account of the Banks and the Agent shall distribute such payments in like funds as are received by the Agent to the Banks according to their *pro rata* entitlement thereto.
- 19.2 If, pursuant to this Agreement, any Advance is to be made to a Borrower on the same date as that on which an Obligor is required to make a payment under this Agreement then, unless the Agent shall be satisfied that the payment to be made by the Obligor will be made (in manner satisfactory to the Agent) from another source, the proceeds of such Advance may be applied first in or towards satisfaction of the Obligor's obligation to make such payment.
- 19.3 The Agent may assume that a payment to be made by an Obligor under the Finance Documents will be made when due and may (but shall not be obliged to) make available to each Bank on that date a sum equal to such Bank's *pro rata* share of such anticipated



- payment. To the extent that the Obligor does not so make such payment to the Agent, each Bank shall forthwith on demand repay to the Agent the sum (or the relevant portion of the sum) made available to such Bank together with interest thereon sufficient to compensate the Agent for the cost of making available such sum (or the relevant portion of such sum) to such Bank up to the date of such repayment.
- 19.4 All Advances made by the Banks to a Borrower under this Agreement shall be remitted on the date of the relevant Advance, for value on the due date to the Agent's account at such office or bank as the Agent may from time to time designate and, save as otherwise provided by this Agreement, shall be paid promptly by the Agent in like funds as are received by the Agent to the account at such office or bank as that Borrower may from time to time designate for this purpose by not less than five business days' notice.
- 19.5 The Agent may assume that each Bank on the due date thereof has made available its share of each Advance or other amount to be paid by such Bank to the Agent for the account of a Borrower and may (but shall not be obliged to) pay to that Borrower or other person entitled thereto a corresponding amount. To the extent that such Bank does not so make its share of each Advance or such portion available, the Agent shall be entitled to recover the relevant amount on demand from such Bank or, failing such Bank from the relevant Borrower, together with interest thereon sufficient to compensate the Agent for the cost of funding such amount for the period up to the date of such recovery.
- 19.6 Payments under the Finance Documents to the Agent shall be made at such times and in such funds as the Agent may specify as being customary at the time for the settlement of the transactions in the relevant currency in the place for payment, being the principal financial centre in the country of the currency concerned or (if there is none) a financial centre through which payments in the currency concerned may be cleared.
- 19.7 Payments under this Agreement by the Agent shall be made by the Agent to the relevant person (on the date and in the currency of funds and receipt) to that person's account with such bank as that person may reasonably specify.
- 19.8 (a) A repayment or prepayment of an Advance is payable in the currency in which the Advance is denominated.
- (b) Interest is payable in the currency in which the relevant amount in respect of which it is payable is denominated.
- (c) Amounts payable in respect of costs, expenses, Taxes and the like are payable in the currency in which they are incurred.
- (d) Any other amount payable under this Agreement is, except as otherwise provided in this Agreement, payable in Sterling.
- 19.9 When any payment would otherwise be due under the Finance Documents on a day which is not a business day, the due date for payment shall be extended to the next following business day unless such business day falls in the next month in which case payment shall be made on the immediately preceding business day and the calculation of the Term of an Advance and the periods of interest, commission and other periodic amounts to be calculated under this Agreement shall be made taking the foregoing into account.
- 19.10 Any certificate or determination of the Agent or any Bank as to any rate of interest, rate of exchange or any other amount pursuant to and for the purposes of any provision of this Agreement shall be conclusive evidence thereof, save in case of manifest error.

19.11 If any sum due from an Obligor under the Finance Documents or under any order or judgment given or made in relation hereto or thereto has to be converted from the currency (the first currency) in which the same is payable hereunder or under such order or judgment into another currency (the second currency) for the purpose of (a) making or filing a claim or proof against an Obligor, (b) obtaining an order or judgment in any court or other tribunal or (c) enforcing any order or judgment given or made in relation thereto, then the Company shall indemnify and hold harmless each of the persons to whom such sum is due from and against any loss suffered as a result of any discrepancy between (i) the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and (ii) the rate or rates of exchange at which such person may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof. The foregoing indemnity shall constitute a separate obligation of an Obligor, distinct from its other obligations under the Finance Documents and shall survive the giving or making of any judgment or order in relation to all or any of such other obligations.

19.12 The Agent will maintain control accounts showing from time to time the Advances outstanding hereunder and other sums owing by an Obligor under the Finance Documents and all payments in respect thereof made by an Obligor. The control accounts referred to above shall be (in the absence of manifest error) conclusive evidence as to the amounts from time to time owing by an Obligor under the Finance Documents. The Agent shall make available to the Company such copies of the control accounts as the Company shall reasonably request from time to time and, if so requested, information as to the principal amount of any outstanding Advance or other amount due by it hereunder, interest and commission accrued thereon (including, without limitation, the manner in which interest is calculated and the amount thereof under Clause 7.3) and, so far as the Agent is aware, the amounts of principal or interest payable by the Obligor and received by the Agent or any Bank hereunder.

## 20. INDEMNITIES

20.1 The Company shall indemnify each Bank and the Agent (without prejudice to their other rights under the Finance Documents) against any loss (including, without limitation, loss of profits) or expense which any of them may certify (such certificate to be conclusive evidence, save in the case of manifest error, as to such loss or expense) as incurred or sustained in consequence of:

- (a) acting hereunder in good faith upon a telephone or telefax instruction or purported instructions which the Company disputes as being genuine or duly authorised or made;
- (b) any default in payment by an Obligor of any sum hereunder when due;
- (c) the occurrence of an Event of Default;
- (d) any payment or prepayment (for any reason) of an Advance or any part thereof being made otherwise than on the Repayment Date relating thereto; or
- (e) any Utilisation not being made for any reason (excluding the default by the Agent or a Bank) after the Utilisation Request has been given,

including (in any such case (a) to (e) above) but not limited to, any loss or expense incurred in maintaining or funding an Advance or proposed Advance or any part thereof or in liquidating or re-employing deposits from third parties to effect or maintain such Advance or proposed Advance.

- 20.2 The Company shall pay all stamp duties and other documentary levies or duties imposed upon or payable in connection with this Agreement or any matter arising hereunder (other than a transfer, or agreement to transfer, any Bank's interest hereunder) and shall indemnify the Agent and each Bank against any liability arising by reason of any delay or omission by the Company in the payment thereof.
- 20.3 The Company shall also pay any Value Added Tax which may become payable on any amount payable hereunder against delivery of an invoice in the prescribed form.
- 20.4 In the case of Clause 20.1(d), the amount payable shall in any event include the amount (if any) by which:
- (a) the amount of interest which the relevant person is able to obtain by placing an amount equal to its share of the relevant Advance so received on deposit in the London Inter-bank Market, for the remainder of the relevant or Term, as soon as reasonably practicable after it becomes aware of the relevant receipt,  
  
is less than:
  - (b) the amount of interest which, in accordance with the expressed terms of this Agreement, would otherwise be payable to that person on its share of the relevant amount so received for the remainder of the relevant or Term.

## **21. REDISTRIBUTION OF PAYMENTS, NETTING AND SET-OFF**

- 21.1 If, during any period while any sum is due and payable by an Obligor hereunder but remains unpaid, the proportion which any Bank (a Recovering Bank) has received or recovered (whether by payment, the exercise of a right of set-off or combination of accounts or otherwise) in respect of any amount (a relevant amount) payable hereunder by an Obligor for the account of such Recovering Bank is greater (the amount of such excess being called an excess amount) than the proportion which any other Bank has received or recovered (whether by payment, the exercise of a right of set-off or combination of accounts or otherwise) in respect of any other amount payable hereunder by an Obligor for the account of such other Bank, then:
- (a) such Recovering Bank shall promptly pay to the Agent an amount equal to such excess amount;
  - (b) the Obligor shall forthwith be obliged to reimburse to such Recovering Bank an amount equal to the amount paid out by it pursuant to paragraph (a) above and the amount to be so paid out by way of reimbursement shall be treated, for the purposes hereof, as if it were an unpaid part of such Recovering Bank's portion of such relevant amount; and
  - (c) the Agent shall treat the amount received by it from such Recovering Bank pursuant to paragraph (a) above as if such amount had been received by it from the Obligor in respect of such relevant amount and shall pay the same to the persons entitled thereto (including such Recovering Bank) *pro rata* to their respective entitlements thereto,

Provided that notwithstanding anything contained herein a Bank which shall have commenced an action or proceeding in any court to recover sums owing to it pursuant to the Finance Documents and as a result thereof, or in connection therewith, shall have received an excess amount shall not be required to share any portion of such excess amount with a Bank which has been notified in advance of such action and has had an opportunity to, but does not,

join such action or proceeding or commence and diligently pursue a separate action or proceeding to enforce its rights in the same or another court.

- 21.2 Without prejudice to the provisions of Clause 21.1, if the Agent shall receive from an Obligor or otherwise funds which are insufficient to satisfy in full the obligations of an Obligor under the Finance Documents then due to be discharged, the Agent shall allocate the funds so received in or towards discharging the amounts then so due from that Obligor under the Finance Documents *pro rata* to the amounts of such obligations and each party hereto irrevocably authorises and directs the Agent so to act.
- 21.3 The Obligors shall not be entitled to make any designation of the application of funds in the circumstances referred to in Clause 21.2.
- 21.4 The Obligors authorise each Bank, at any time when an Event of Default has occurred and is continuing, to apply any credit balance to which the Obligors are entitled on any account with such Bank in or towards satisfaction of any sum due and payable by the Obligors to such Bank hereunder but unpaid. For that purpose each Bank is authorised to purchase with the monies standing to the credit of any such account such other currencies as may be necessary to effect such application. In effecting such currency transaction, the applicable rate of exchange shall be that Bank's spot rate of exchange at 11.00 a.m. on the day such transaction was effected. No Bank shall be obliged to exercise any right given to it by this Clause. Nothing in the foregoing shall be taken to constitute a charge given by an Obligor in favour of the Bank.

## **22. FEES AND EXPENSES**

- 22.1 The Company shall pay to the Agent for the account of each Bank (rateably according to the proportion which its relevant Commitment bears to the relevant Total Commitments at that time), a commitment fee calculated at the rate of 40 per cent. of the applicable Margin (being the Margin that would apply as from the delivery of the relevant Directors' Financial Certificate) on the Available Commitments (defined below) of the Banks from day to day. Such fees shall accrue in arrears and be payable quarterly from the date of this Agreement and on the Final Termination Date.

For the purposes of this Clause, **Available Commitments** means the sum of the Total Commitments at the end of a day less the sum of the total of Outstandings under the Facility at the end of that day.

- 22.2 The Company shall pay to the Agent, for distribution to the Mandated Lead Arrangers and/or the Banks, the fees as specified in the relevant Fee Letters. Such fee shall be payable irrespective of whether, or the extent to which, the Facility is utilised.
- 22.3 The Company shall pay to the Agent, for its own account, such fees as are specified in a Fee Letter.
- 22.4 The Company shall pay to the Agent and the Mandated Lead Arrangers, on demand, all reasonable costs and expenses (including legal expenses, publicity costs and out-of-pocket expenses and inclusive of Value Added Tax) up to a maximum amount agreed between the Company, the Mandated Lead Arrangers and the Agent incurred by the Agent or the Mandated Lead Arrangers in connection with the negotiation, preparation, syndication, execution and administration of this Agreement and matters arising hereunder or of any amendment of or granting of any waiver or consent under this Agreement.

22.5 The Company shall pay to the Agent and each Bank, on demand, all costs and expenses (including legal and out-of-pocket expenses and inclusive of Value Added Tax) incurred by the Agent or the Banks in connection with the preservation or enforcement of any of their rights under any Finance Document or otherwise in respect of the recovery of moneys due hereunder.

22.6 The Company shall forthwith on demand pay the Agent for the cost of utilising its management time or other resources in connection with:

- (a) the occurrence of a Default; or
- (b) the enforcement of, or the preservation of any rights under, any Finance Document.

Any amount payable to the Agent under this Clause 22.6 will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Company, and is in addition to any fee paid or payable to the Agent under Clause 22.3.

## **23. THE AGENT AND THE MANDATED LEAD ARRANGERS**

### **23.1 Appointment and duties of the Agent**

- (a) Each Finance Party (other than the Agent) irrevocably appoints the Agent to act as its agent under the Finance Documents.
- (b) Each Finance Party irrevocably authorises the Agent to:
  - (i) perform the duties and to exercise the rights, powers and discretions that are specifically given to it under the Finance Documents, together with any other incidental rights, powers and discretions; and
  - (ii) execute each Finance Document expressed to be executed by the Agent.
- (c) The Agent has only those duties which are expressly specified in the Finance Documents. Those duties are solely of a mechanical and administrative nature.

### **23.2 No fiduciary duties**

Except as specifically provided in a Finance Document, nothing in the Finance Documents makes the Agent a trustee or fiduciary for any other Party or any other person. The Agent need not hold in trust any moneys paid to it for a Party or be liable to account for interest on those moneys.

### **23.3 Individual position of the Agent**

- (a) If it is also a Bank, the Agent has the same rights and powers under the Finance Documents as any other Bank and may exercise those rights and powers as though it were not the Agent.
- (b) The Agent may:
  - (i) carry on any business with any Obligor or its related entities (including acting as an agent or a trustee for any other financing); and
  - (ii) retain any profits or remuneration it receives under the Finance Documents or in relation to any other business it carries on with any Obligor or its related entities.

#### **23.4 Reliance**

The Agent may:

- (a) rely on any notice or document believed by it to be genuine and correct and to have been signed by, or with the authority of, the proper person;
- (b) rely on any statement made by any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify;
- (c) engage, pay for and rely on professional advisers selected by it (including those representing a Party other than the Agent); and
- (d) act under the Finance Documents through its personnel and agents.

#### **23.5 Instructing Group instructions**

- (a) The Agent is fully protected if it acts on the instructions of an Instructing Group in the exercise of any right, power or discretion or any matter not expressly provided for in the Finance Documents. Any such instructions given by an Instructing Group will be binding on all the Banks. In the absence of instructions, the Agent may act as it considers to be in the best interests of all the Banks.
- (b) The Agent may assume that unless it has received notice to the contrary, any right, power, authority or discretion vested in any Party or an Instructing Group has not been exercised.
- (c) The Agent is not authorised to act on behalf of a Bank (without first obtaining that Bank's consent) in any legal or arbitration proceedings in connection with any Finance Document.
- (d) The Agent may require the receipt of security satisfactory to it, whether by way of payment in advance or otherwise, against any liability or loss which it may incur in complying with the instructions an Instructing Group.

#### **23.6 Responsibility**

- (a) Neither the Mandated Leader Arranger nor the Agent is responsible to any other Finance Party for the adequacy, accuracy or completeness of:
  - (i) any Finance Document or any other document; or
  - (ii) any statement or information (whether written or oral) made in or supplied in connection with any Finance Document.
- (b) Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Bank confirms that it:
  - (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of each Obligor and its related entities and the nature and extent of any recourse against any Party or its assets); and
  - (ii) has not relied exclusively on any information provided to it by the Agent in connection with any Finance Document.

### **23.7 Exclusion of liability**

- (a) The Agent is not liable or responsible to any other Finance Party for any action taken or not taken by it in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.
- (b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in connection with any Finance Document. Any officer, employee or agent of the Agent may rely on this Clause and enforce its terms under the Contracts (Rights of Third Parties) Act 1999.

### **23.8 Default**

- (a) The Agent is not obliged to monitor or enquire whether a Default has occurred. The Agent is not deemed to have knowledge of the occurrence of a Default.
- (b) If the Agent:
  - (i) receives notice from a Party referring to this Agreement, describing a Default and stating that the event is a Default; or
  - (ii) is aware of the non-payment of any principal or interest or any fee payable to a Bank under this Agreement,

it must promptly notify the Banks.

### **23.9 Information**

- (a) The Agent must promptly forward to the person concerned the original or a copy of any document which is delivered to the Agent by a Party for that person.
- (b) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (c) Except as provided above, the Agent has no duty:
  - (i) either initially or on a continuing basis to provide any Bank with any credit or other information concerning the risks arising under or in connection with the Finance Documents (including any information relating to the financial condition or affairs of any Obligor or its related entities or the nature or extent of recourse against any Party or its assets) whether coming into its possession before, on or after the date of this Agreement; or
  - (ii) unless specifically requested to do so by a Bank in accordance with a Finance Document, to request any certificate or other document from any Obligor.
- (d) In acting as the Agent, the agency division of the Agent is treated as a separate entity from its other divisions and departments. Any information acquired by the Agent which, in its opinion, is acquired by it otherwise than in its capacity as the Agent may be treated as confidential by the Agent and will not be treated as information possessed by the Agent in its capacity as such.

- (e) The Agent is not obliged to disclose to any person any confidential information supplied to it by or on behalf of a member of the Group solely for the purpose of evaluating whether any waiver or amendment is required in respect of any term of the Finance Documents.
- (f) Each Obligor irrevocably authorises the Agent to disclose to the other Finance Parties any information which, in its opinion, is received by it in its capacity as the Agent.

#### **23.10 Indemnities**

- (a) Without limiting the liability of any Obligor under the Finance Documents, each Bank must indemnify the Agent for that Bank's *pro rata* share of any loss or liability incurred by the Agent in acting as the Agent, except to the extent that the loss or liability is caused by the Agent's gross negligence or wilful misconduct.
- (b) The Agent may deduct from any amount received by it for a Bank any amount due to the Agent from that Bank under a Finance Document but unpaid.

#### **23.11 Compliance**

The Agent may refrain from doing anything (including disclosing any information) which might, in its opinion, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person, and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.

#### **23.12 Resignation of the Agent**

- (a) The Agent may resign and appoint any of its affiliates as successor Agent by giving notice to the Banks and the Obligors.
- (b) Alternatively, the Agent may resign by giving notice to the Banks and the Obligors, in which case an Instructing Group may appoint a successor Agent.
- (c) If no successor Agent has been appointed under paragraph (b) above within 30 days after notice of resignation was given, the Agent may appoint a successor Agent.
- (d) The person(s) appointing a successor Agent must, if practicable, consult with the Company prior to the appointment. Any successor Agent must have an office in the U.K.
- (e) The resignation of the Agent and the appointment of any successor Agent will both become effective only when the successor Agent notifies all the Parties that it accepts its appointment. On giving the notification, the successor Agent will succeed to the position of the Agent and the term **Agent** will mean the successor Agent.
- (f) The retiring Agent must, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as the Agent under the Finance Documents.
- (g) Upon its resignation becoming effective, this Clause will continue to benefit the retiring Agent in respect of any action taken or not taken by it in connection with the Finance Documents while it was the Agent, and, subject to paragraph (f) above, it will have no further obligations under any Finance Document.



- (h) An Instructing Group may, by notice to the Agent, require it to resign under paragraph (b) above.

### **23.13 Relationship with Banks**

- (a) The Agent may treat each Bank as a Bank, entitled to payments under this Agreement and as acting through its Facility Office until it has received not less than five business days' prior notice from that Bank to the contrary.
- (b) The Agent may at any time, and must if requested to do so by an Instructing Group, convene a meeting of the Banks.
- (c) The Agent must keep a register of all the Parties and supply any other Party with a copy of the register on request. The register will include each Bank's Facility Office and contact details for the purposes of this Agreement.
- (d) Nothing in this Agreement shall oblige the Agent to carry out any know your client or other checks in relation to the identity of any person on behalf of any Bank and each Bank confirms to the Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by any other person.

### **23.14 Notice period**

Where this Agreement specifies a minimum period of notice to be given to the Agent, the Agent may, at its discretion, accept a shorter notice period.

### **23.15 Role of the Mandated Lead Arrangers**

Except as specifically provided in this Agreement, the Mandated Lead Arrangers or Arranger have no obligations of any kind to any other Party under or in connection with any Finance Document.

## **24. ASSIGNMENTS AND TRANSFERS**

### **24.1 Assignments and transfers by Obligors.**

No Obligor may assign or transfer any of its rights and obligations under the Finance Documents without the prior consent of all the Banks.

### **24.2 Assignments and transfers by Banks**

- (a) A Bank (the **Existing Bank**) may, subject to the following provisions of this Clause, at any time assign or transfer (including by way of novation) any of its rights and obligations under this Agreement to any other 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 Bank**).
- (b) Unless the Company and the Agent otherwise agree, a transfer of part of a Commitment or the rights and obligations under this Agreement by the Existing Bank must be in a minimum amount of £10,000,000.
- (c) The consent of the Company is required for any assignment or transfer unless the New Bank is another Bank or an affiliate of a Bank or if an Event of Default is outstanding. The consent of the Company must not be unreasonably withheld or delayed. The Company will be

deemed to have given its consent 14 business days after the Company is given notice of the request unless it is expressly refused by the Company within that time.

- (d) A transfer of obligations will be effective only if either:
  - (i) the obligations are novated in accordance with the following provisions of this Clause; or
  - (ii) the New Bank confirms to the Agent and the Company in form and substance satisfactory to the Agent that it is bound by the terms of this Agreement as a Bank. On the transfer becoming effective in this manner the Existing Bank will be released from its obligations under this Agreement to the extent that they are transferred to the New Bank.
- (e) Unless the Agent otherwise agrees, the New Bank must pay to the Agent for its own account, on or before the date any assignment or transfer occurs, a fee of £1,500.
- (f) Any reference in this Agreement to a Bank includes a New Bank but excludes a Bank if no amount is or may be owed to or by it under this Agreement.

#### **24.3 Procedure for transfer by way of novations**

- (a) In this Clause:

**Transfer Date** means, for a Transfer Certificate, the later of:

  - (i) the proposed Transfer Date specified in that Transfer Certificate; and
  - (ii) the date on which the Agent executes that Transfer Certificate.
- (b) A novation is effected if:
  - (i) the Existing Bank and the New Bank deliver to the Agent a duly completed Transfer Certificate; and
  - (ii) the Agent executes it.

The Agent must execute as soon as reasonably practicable a Transfer Certificate delivered to it and which appears on its face to be in order. The Agent shall only be obliged to execute a Transfer Certificate upon its satisfaction with the results of all know your client or other checks relating to the identity of any person that it is required to carry out in relation to the transfer to such New Bank. The Agent must promptly notify the Existing Bank and the New Bank if there are any such requirements.
- (c) Each Party (other than the Existing Bank and the New Bank) irrevocably authorises the Agent to execute any duly completed Transfer Certificate on its behalf.
- (d) On the Transfer Date:
  - (i) the New Bank will assume the rights and obligations of the Existing Bank expressed to be the subject of the novation in the Transfer Certificate in substitution for the Existing Bank; and
  - (ii) the Existing Bank will be released from those obligations and cease to have those rights.

#### **24.4 Limitation of responsibility of Existing Bank**

- (a) Unless expressly agreed to the contrary, an Existing Bank is not responsible to a New Bank for the legality, validity, adequacy, accuracy, completeness or performance of:
  - (i) any Finance Document or any other document; or
  - (ii) any statement or information (whether written or oral) made in or supplied in connection with any Finance Document,and any representations or warranties implied by law are excluded.
- (b) Each New Bank confirms to the Existing Bank and the other Finance Parties that it:
  - (i) has made, and will continue to make, its own independent appraisal of all risks arising under or in connection with the Finance Documents (including the financial condition and affairs of each Obligor and its related entities and the nature and extent of any recourse against any Party or its assets) in connection with its participation in this Agreement; and
  - (ii) has not relied exclusively on any information supplied to it by the Existing Bank in connection with any Finance Document.
- (c) Nothing in any Finance Document requires an Existing Bank to:
  - (i) accept a re-transfer from a New Bank of any of the rights and obligations assigned or transferred under this Clause; or
  - (ii) support any losses incurred by the New Bank by reason of the non-performance by any Obligor of its obligations under any Finance Document or otherwise.

#### **24.5 Costs resulting from change of Bank or Facility Office**

If:

- (a) a Bank assigns or transfers any of its rights and obligations under the Finance Documents or changes its Facility Office; and
- (b) as a result of circumstances existing at the date the assignment, transfer or change occurs, an Obligor would be obliged to pay a Tax Payment or any increased cost in accordance with Clause 11,

then, unless the assignment, transfer or change is made by a Bank to mitigate any circumstances giving rise to the Tax Payment or such increased cost or a right to be prepaid and/or cancelled by reason of illegality, the relevant Obligor need only pay that Tax Payment or such increased cost to the same extent that it would have been obliged to if no assignment, transfer or change had occurred.

#### **24.6 Changes to the Reference Banks**

If a Reference Bank (or, if a Reference Bank is not a Bank, the Bank of which it is an affiliate) ceases to be a Bank, the Agent must (in consultation with the Company) appoint another Bank or an affiliate of a Bank to replace that Reference Bank.

#### **24.7 Disclosure of information**

Any Bank may disclose to any of its affiliates and any other person:

- (a) to (or through) whom that Bank assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Agreement;
- (b) with (or through) whom that Bank enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, this Agreement or any Obligor; or
- (c) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about any Obligor, the Group and the Finance Documents as that Bank shall consider appropriate.

#### **24.8 Additional Obligor**

- (a) The Company must ensure that Greene King Neighbourhood Pub Holdings Limited and Greene King Neighbourhood Estate Pubs Limited each become an Additional Guarantor within 30 days of the date of this Agreement and the Company must (following consultation with the Agent) deliver to the Agent the relevant documents and evidence listed in Part II of Schedule 2.
- (b) If the Company wishes one of its wholly owned subsidiaries incorporated in the United Kingdom to become an Additional Guarantor, then it may (following consultation with the Agent) deliver to the Agent the relevant documents and evidence listed in Part II of Schedule 2.
- (c) If the Company wishes one of its wholly owned subsidiaries incorporated in the United Kingdom to become an Additional Borrower, then it may, with the prior written consent of the Agent, deliver to the Agent the relevant documents and evidence listed in Part II of Schedule 2.
- (d) If the accession of an Additional Guarantor or an Additional Borrower (as applicable) requires any Finance Party to carry out know your client requirements in circumstances where the necessary information is not already available to it, the Company must promptly on request by any Finance Party supply to that Finance Party any documentation or other evidence which is reasonably requested by that Finance Party (whether for itself, on behalf of any Finance Party or any prospective new Bank to enable a Finance Party or prospective new Bank to carry out and be satisfied with the results of all applicable know your client requirements.
- (e) The relevant subsidiary will become an Additional Guarantor or an Additional Borrower (as applicable) when the Agent notifies the other Finance Parties and the Company that it has received all of the documents and evidence referred to in paragraph (a) or (b) (as applicable) above in form and substance satisfactory to it. The Agent must give this notification as soon as reasonably practicable.
- (f) Delivery of an Accession Agreement, executed by the relevant subsidiary and the Company to the Agent constitutes confirmation by that subsidiary and the Company that the representations and warranties set out in Clause 16.1 excluding those referred to in paragraphs (e) and (g) thereof are then correct.

## 25. NOTICES

25.1 Each communication to be made hereunder shall, unless otherwise stated, be made by telex, telefax or letter.

25.2 Any communication or document (unless made by telefax or telephone) to be made or delivered by one person to another pursuant to this Agreement shall be made or delivered to that other person for the attention of the person or office and at the address or telex number specified pursuant to Clause 25.4 and shall be deemed to have been made or delivered when such communication or document has been despatched and the appropriate answerback received (in the case of any communication made by telex) or (in the case of any communication made by letter) when left at that address or, as the case may be, one business day after being deposited in the post first class postage prepaid in an envelope addressed to it as aforesaid; provided that any communication or document to be made or delivered to the Agent shall be effective only when received by the Agent.

25.3 Where a telephone or telefax communication is to be made by one person to another pursuant to this Agreement, such communication shall be made to that other person at the relevant telephone number specified by it from time to time for the purpose pursuant to Clause 25.4 and shall be deemed to have been received when made (in the case of any communication by telephone) or when transmission of such telefax communication has been completed and receipt thereof has been confirmed by telephone (in the case of any telecommunications by telefax). Each such telefax communication, if made to the Agent by the Company shall be signed and despatched by an authorised signatory of the Company, shall be expressed to be for the attention of the officer, department or section whose details have been notified for the time being for that purpose by the Agent to the Company and shall be confirmed promptly by letter sent to the Agent.

25.4 Any communication or document to be sent:

(a) to an Obligor, shall be sent to it at:

Westgate Brewery  
Bury St Edmunds  
Suffolk IP33 1QT

Telefax No: 01284 723 719  
Telephone No: 01284 763 222  
Attention: Company Secretary

to the Agent, shall be sent to it at:

Lloyds TSB Bank plc  
Bank House  
Wine Street  
Bristol BS1 2AN

Telefax No: 0117 923 3367  
Telephone No: 0117 923 3346  
Attention: Loans Administration Department

to a Bank, shall be sent to it at the address notified to the Agent prior to it becoming a Party; or

- (b) in each case, to such other address, telex, telefax, telephone number or attention in the United Kingdom as any such person has by 15 days written notice specified to the Agent.

**26. SEVERABILITY**

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

**27. WAIVERS**

Time shall be of the essence in respect of the performance of the obligations of the Obligor under this Agreement, but no failure to exercise, nor any delay in exercising, on the part of any party hereto, of any right or remedy thereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any other right or remedy. The rights and remedies therein provided are cumulative and not exclusive of any rights or remedies provided by law.

**28. NO PARTNERSHIP**

Neither this Agreement nor anything contemplated by it shall constitute a partnership between the parties thereto or any of them.

**29. AMENDMENTS AND WAIVERS**

**29.1 Procedure**

- (a) Except as provided in this Clause, any term of the Finance Documents may be amended or waived with the agreement of the Company and an Instructing Group. The Agent may effect, on behalf of any Finance Party, an amendment or waiver allowed under this Clause.
- (b) The Agent must promptly notify the other Parties of any amendment or waiver effected by it under paragraph (a) above. Any such amendment or waiver is binding on all the Parties.

**29.2 Exceptions**

- (a) An amendment or waiver which relates to:
  - (i) the definition of Instructing Group in Clause 1.1;
  - (ii) an extension of the date of payment of any amount to a Bank under the Finance Documents;
  - (iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fee or other amount payable to a Bank under the Finance Documents;
  - (iv) an increase in, or an extension of, a Commitment or the Total Commitments;
  - (v) a release of an Obligor;
  - (vi) a term of a Finance Document which expressly requires the consent of each Bank;

- (vii) the right of a Bank to assign or transfer its rights or obligations under the Finance Documents;
- (viii) Clause 15 (Guarantee);
- (ix) Clause 2.3 (the Facilities);
- (x) Clause 2.4 (the Facilities); or
- (xi) this Clause,

may only be made with the consent of all the Banks.

- (b) An amendment or waiver which relates to the rights or obligations of the Agent may only be made with the consent of the Agent.

### **30. COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

### **31. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by English law. For the benefit of the other parties hereto, each Obligor irrevocably agrees that the English courts are to have jurisdiction for all purposes of or in connection with this Agreement. The Banks may also commence proceedings against an Obligor in any jurisdiction where that Obligor may have assets.

**AS WITNESS** the hands of the duly authorised representatives of the parties hereto on the day and year first before written.

## SCHEDULE 1

### THE BANKS

Original Banks	Commitments £
Alliance & Leicester Commercial Bank plc	54,000,000
Allied Irish Banks, p.l.c.	54,000,000
Barclays Bank PLC	54,000,000
BNP Paribas	72,000,000
Dresdner Bank AG London Branch	72,000,000
Lloyds TSB Bank plc	72,000,000
The Royal Bank of Scotland plc	72,000,000
<b>Total Commitments</b>	<b>£450,000,000</b>



## SCHEDULE 2

### PART 1

#### CONDITIONS PRECEDENT

1. Copies, certified to the Agent to be true and up to date copies by the Secretary of each Obligor, of the current Certificate of Incorporation and the Memorandum and Articles of Association of that Obligor.
2. A copy of an extract of the minutes of a meeting of a committee of the board of directors of each Borrower (and a copy of an extract of the minutes of a meeting of the board of directors of each Borrower appointing such committee) and a copy of an extract of the minutes of a meeting of the board of directors of each Guarantor, certified to the Agent to be true and correct and in full force and effect by the Secretary or a director of the relevant Obligor, including resolutions approving this Agreement, approving the execution and delivery by that Obligor of this Agreement, approving the utilisation of the Facilities hereunder and approving its observance of and its performance of its obligations hereunder and authorising a person or persons (specified by name or office) to sign or execute, on behalf of that Obligor, this Agreement and any other notices, documents or action to be given, delivered or taken by it hereunder or in connection herewith were passed.
3. A copy of a resolution signed by all (or any lower percentage agreed by the Agent) of the holders of all the issued or allotted shares in each Original Guarantor approving the terms of and the transactions contemplated by, this Agreement.
4. A certificate of the Secretary of each Obligor, addressed to the Agent, setting out the names, offices and signatures of the persons referred to in 2 above.
5. A certificate, given by the Secretary or a Director of each Obligor, addressed to the Agent, certifying that:
  - (a) the entry into by it and the observance by it of this Agreement and the utilisation of the Facility from time to time by the Borrowers hereunder will not infringe any limitation (including borrowing limits) or restriction upon the powers or authorities of that Obligor or of its directors or other officers under its Memorandum and Articles of Association or under any other document;
  - (b) each copy document specified in this Schedule is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.
6. A certificate, given to the Agent by two directors of the Company, certifying that:
  - (a) as at the date of this Agreement the representations and warranties set forth in Clause 16 are true and correct;
  - (b) as at the date of this Agreement no Default has occurred and is continuing or would result from the making of any Utilisation;
  - (c) as at the date of this Agreement there has not occurred any adverse change in the business, operation, properties, assets, revenue or financial condition of the Company or its subsidiaries which could materially affect the ability of an Obligor to perform its obligations hereunder; and

(d) as at the date of this Agreement there is no reason known to those giving such certificate, having made reasonable enquiries, why the foregoing should not also be true and correct at the time of the making of the first Advance, by reference to the facts and circumstances anticipated to exist at such time.

7. An opinion from Allen & Overy LLP, Solicitors to the Agent, addressed to the Agent, the Banks and the Mandated Lead Arrangers.
8. Evidence that all fees and expenses then due and payable from the Company under the Finance Documents have been or will be paid on or by the first Utilisation Date.
9. The Fee Letters.
10. Evidence that the total commitments (howsoever defined) under the Bridge Facility have been or will be irrevocably reduced to an amount less than or equal to £600,000,000 on or by the first Utilisation Date.

**PART 2**  
**FOR AN ADDITIONAL OBLIGOR**

**Additional Obligor**

1. An Accession Agreement, duly executed by the Company and the Additional Guarantor or Additional Borrower (as applicable).
2. Copy certified to the Agent to be true and up to date copies by the Secretary of the Additional Guarantor or Additional Borrower (as applicable), of the current Certificate of Incorporation and the Memorandum and Articles of Association of that Additional Guarantor or Additional Borrower (as applicable).
3. A copy of an extract of the minutes of a meeting of a committee of the board of directors of the Additional Guarantor or Additional Borrower (as applicable) (and a copy of an extract of the minutes of a meeting of the board of directors of the Additional Guarantor or Additional Borrower (as applicable) appointing such committee) certified to the Agent to be true and correct and in full force and effect by the Secretary of the relevant Additional Guarantor or Additional Borrower (as applicable), including resolutions approving the Accession Agreement and any other matters, documents and transactions contemplated thereby, and approving its observance of and its performance of its obligations thereunder and authorising a person or persons (specified by name or office) to sign or execute, on behalf of that Additional Guarantor or Additional Borrower (as applicable), this Accession Agreement and any other notices, documents or action to be given, delivered or taken by it thereunder or in connection herewith were passed.
4. In the case of an Additional Guarantor incorporated in the U.K., a copy of the resolution, signed by all (or any lower percentage agreed by the Agent) of the holders of its issued or allotted shares, approving the terms of, and the transactions contemplated by, the Accession Agreement.
5. If applicable, a copy of a resolution of the board of directors of each corporate shareholder in the Additional Guarantor approving the resolution referred to in paragraph 4 above.
6. A certificate of the Secretary of the Additional Guarantor or Additional Borrower (as applicable), addressed to the Agent, setting out the names, offices and signatures of the persons referred to in 3 above.
7. A certificate, given by the Secretary or a Director of the Additional Guarantor, addressed to the Agent, certifying that:
  - (a) the entry into by it and the observance by it of this Agreement and the utilisation of the Facilities from time to time hereunder will not infringe any limitation (including borrowing limits) or restriction upon the powers or authorities of that Additional Guarantor or Additional Borrower (as applicable) or of its directors or other officers under its Memorandum and Articles of Association or under any other document;
  - (b) each copy document specified in this Schedule is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.
8. If available, a copy of the latest audited accounts of the Additional Guarantor or Additional Borrower (as applicable).

9. An opinion from Allen & Overy LLP, Solicitors to the Agent, addressed to the Agent and the Banks.
10. If the Additional Guarantor or Additional Borrower (as applicable) is incorporated in a jurisdiction other than England, evidence that the agent of the Additional Guarantor or Additional Borrower (as applicable) under the Finance Documents for service of process in England has accepted its appointment.
11. If the Additional Guarantor or Additional Borrower (as applicable) is incorporated in a jurisdiction other than England, a legal opinion from legal advisers in that jurisdiction, addressed to the Finance Parties.
12. Evidence that all fees and expenses then due and payable from the Company under the Agreement in respect of the Accession Agreement have been paid.
13. A copy of any other authorisation or other document, opinion or assurance which the Agent (acting reasonably) has notified the Company is necessary or desirable in connection with the entry into and performance of, and the transactions contemplated by, the Accession Agreement or for the validity and enforceability of any Finance Document (including any required to comply with the procedures contemplated by sections 155-158 of the Companies Act 1985).

### SCHEDULE 3

#### CALCULATION OF THE MANDATORY COST

##### 1. General

The Mandatory Cost is the weighted average of the rates for each Bank calculated below by the Agent on the first day of a Term. The Agent must distribute each amount of Mandatory Cost among the Banks on the basis of the rate for each Bank.

##### 2. Rate

2.1 The relevant rate for a Bank is calculated in accordance with the following formula:

$$\frac{AB + C(B - D) + E \times 0.01}{100 - (A + C)} \text{ per cent. per annum}$$

where on the day of application of the formula:

- A is the percentage of that Bank's eligible liabilities (in excess of any stated minimum) which the Bank of England requires it to hold on a non-interest-bearing deposit account in accordance with its cash ratio requirements;
- B is LIBOR for that Term;
- C is the percentage of that Bank's eligible liabilities which the Bank of England requires it to place as a special deposit;
- D is the interest rate per annum allowed by the Bank of England on a special deposit; and
- E is calculated by the Agent as being the average of the rates of charge supplied by the Reference Banks to the Agent under paragraph 2.4 below and expressed in pounds per £1 million.

2.2 For the purposes of this paragraph 2:

- (a) **eligible liabilities** and **special deposit** have the meanings given to them at the time of application of the formula by the Bank of England;
- (b) **fees rules** means the then current rules on periodic fees in the Supervision Manual of the FSA Handbook; and
- (c) **tariff base** has the meaning given to it in the fees rules.

- 2.3
- (a) In the application of the formula, A, B, C and D are included as figures and not as percentages, e.g. if A = 0.5% and B = 15%, AB is calculated as 0.5 x 15. A negative result obtained by subtracting D from B is taken as zero.
  - (b) Each rate calculated in accordance with the formula is, if necessary, rounded upward to four decimal places.

- 2.4 (a) Each Reference Bank must supply to the Agent the rate of charge payable by that Reference Bank to the Financial Services Authority under the fees rules (calculated by that Reference Bank as being the average of the rates of charge within fee-block Category A1 (Deposit acceptors) applicable to that Reference Bank but, for this purpose, applying any applicable discount and ignoring any minimum fee required under the fees rules) and expressed in pounds per £1 million of the tariff base of that Reference Bank.
- (b) Each Reference Bank must promptly notify the Agent of any change to the rate of charge.
- 2.5 (a) Each Bank and each Reference Bank must supply to the Agent the information required by it to make a calculation of the rate for that Bank or Reference Bank. The Agent may assume that this information is correct in all respects.
- (b) If a Bank or a Reference Bank fails to do so, the Agent may assume that the Bank's or that Reference Bank's obligations in respect of cash ratio deposits, special deposits and the fees rules are the same as those of a typical bank from its jurisdiction of incorporation with a Facility Office in the U.K.
- (c) The Agent has no liability to any Party if its calculation over or under compensates any Bank.

### 3. Changes

The Agent may, after consultation with the Company and the Banks, notify all the Parties of any amendment to this Schedule which is required to reflect:

- (a) any change in law or regulation; or
- (b) any requirement imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any successor authority).

Any notification will be, in the absence of manifest error, conclusive and binding on all the Parties.

## SCHEDULE 4

### FORM OF UTILISATION REQUEST

To: [AGENT]  
[ADDRESS]

Attention: [ ]

From: [BORROWER]

Date:

Dear Sirs,

Facilities Agreement dated [ ] December, 2004

1. We refer to the Facilities Agreement dated [ ] December, 2004 and made between, amongst others, Greene King plc (the **Company**), Greene King Brewing and Retailing Limited and Greene King Acquisitions Limited (the **Guarantors**), the banks and financial institutions parties thereto from time to time (the **Banks**) and Lloyds TSB Bank plc Capital Markets as agent (the **Agent**), as the same has been amended and novated from time to time (the **Agreement**). Terms defined in the Agreement shall bear the same meaning herein.
2. We hereby give you notice that we wish to utilise the Facility, as follows:
  - (a) Utilisation:
  - (b) Utilisation Date:
  - (c) Requested Amount:
  - (d) [Term]\*:
  - (e) [Repayment Date]:
3. Our account to which the proceeds of the Utilisation are to be sent, is:

Bank: [●]  
Account Name: [●]  
Account Number: [●]  
Sort Code: [●]
4. [For a new Advance].

The Borrower represents and warrants that, at the date hereof, the representations and warranties set out in Clause 16.1 of the Agreement, interpreted in accordance with Clause 16.2 of the Agreement, are true and correct and will remain so at the proposed Utilisation Date and confirms that no Default has occurred and is continuing and nor will a Default occur as a result of the making of the proposed Advance nor has a petition been

presented for a winding-up or liquidation of it or any of its subsidiaries (except for any subsidiary which is a dormant company).

**[For a Rollover Advance].**

The Borrower represents and warrants that, at the date hereof, the representations and warranties set out in Clause 16.1 of the Agreement, interpreted in accordance with Clause 16.2 of the Agreement, are true and correct and will remain so at the proposed Utilisation Date and confirms that no Event of Default has occurred and is continuing and nor will an Event of Default occur as a result of the making of the proposed Advance nor has a petition been presented for a winding-up or liquidation of it or any of its subsidiaries (except for any subsidiary which is a dormant company).

Yours faithfully,

.....  
For and on behalf of  
[BORROWER]



## SCHEDULE 5

### FINANCIAL COVENANTS AND RELEVANT DEFINITIONS

#### Clause 17.1(b)

1. The Company will ensure that:

- (a) From and including the Compliance Test Date falling on or around April, 2005, as at each Mid Year Date and as at each Financial Year Date, for the twelve months ending on that Mid Year Date or Financial Year Date (as the case may be), the ratio of Consolidated EBITDA to Consolidated Net Interest Payable shall be at least:

(A) 2.0:1 from the date of this Agreement up to and including the date of completion of the Permitted Securitisation;

(B) provided that the Permitted Securitisation has completed:

I. 2.5:1 for the Compliance Test Dates falling on or around April, 2005 and October, 2005; and

II. 3.0:1 for the Compliance Test Date falling on or around April, 2006 and thereafter.

- (b) From and including the Compliance Test Date falling on or around April, 2005, as at each Mid Year Date and as at each Financial Year Date, for the twelve months ending on that Mid Year Date or Financial Year Date (as the case may be) the ratio of Consolidated Net Debt to Consolidated EBITDA (the **Net Debt Ratio**) shall not exceed:

(A) 5.5:1 from the date of this Agreement up to and including the date of completion of the Permitted Securitisation;

(B) provided that the Permitted Securitisation has completed:

I. 5.0:1 for the Compliance Test Date falling on or around April, 2005;

II. 4.75:1 for the Compliance Test Date falling on or around October, 2005; and

III. 4.5:1 thereafter.

- (c) Consolidated Net Debt do not at any time exceed 80 per cent. of Consolidated Tangible Fixed Assets at that time provided that during the period of [7] days from the date on which any disposal is made under Clause 17.2(e)(vii), when calculating Consolidated Tangible Fixed Assets, that disposal shall be deemed not to have occurred.

- (d) After the date of completion of the Permitted Securitisation, if the Net Debt Ratio is less than 4.5:1.0 on two successive Compliance Test Dates, Clauses 9.6(b) and 17.5 shall not apply.

2. The Company will procure that:

- (a) It provides to the Agent at the same time as it delivers its accounts pursuant to Clause 17.1(a)(i) and (ii) a certificate from two directors of the Company (a **Directors' Financial Certificate**), addressed to the Agent (in the form of Schedule 6) certifying as at the Mid Year Date or Financial Year Date (as the case may be) to which those accounts were drawn up:

- (i) the respective amounts of Consolidated EBITDA and Consolidated Net Interest Payable for the twelve months ending on that Mid Year Date or Financial Year Date (as the case may be);
- (ii) the respective amounts, as at such respective dates, of Consolidated Tangible Assets, Consolidated Net Debt and the Net Debt Ratio; and
- (iii) compliance with the requirements of Paragraph 1 above.

Such certificate shall also include the explanation and enclosures referred to in the form contained in Schedule 6;

- (b) It will maintain its Financial Years as being a period of either 52 or 53 weeks ending on one of the dates between 28th April and 7th May (inclusive) in each year; and
- (c) It will inform the Agent promptly if at any time, in the light of the information then available to the Company, it appears that the Company has not or is likely not to be able to comply with the requirements of Paragraph 1(a) or (b) above, or that it has not or is likely not to be able to comply with the requirements of Paragraph 1(c) above.

3. For the purposes of this Agreement, the following terms shall be construed, where applicable, in accordance with generally accepted accounting principles consistently applied in the United Kingdom and so that:

- (a) **Borrowings** means any liability for the payment or repayment of money incurred in respect of:
- (i) the principal amount (including capitalised interest and interest accrued for more than six months but not yet payable) of money borrowed or raised of any kind (whether or not for a cash consideration) and premiums (if any) in respect thereof;
  - (ii) the principal amount (including capitalised interest) of the principal, premiums (if any) and accrued interest in respect of any debenture, bond, note, loan stock or similar instrument;
  - (iii) the principal amount (including capitalised interest and interest accrued for more than six months but not yet payable) of any redeemable share capital or other amounts payable thereon;
  - (iv) the principal amount (including capitalised interest and interest accrued for more than six months but not yet payable) of any acceptance credits, note or bond facilities and documentary credits which documentary credits alone or cumulatively are for amounts in excess of a principal amount of £1,000,000;
  - (v) any receivables sold or discounted (otherwise than on a non-recourse basis) to the extent of any recourse to the vendor;

- (vi) any arrangement entered into as a method of financing involving an obligation or option (put or call) to purchase or repurchase the same or similar assets sold as part of that arrangement;
- (vii) rental or hire payments due under hire-purchase agreements or finance leases (whether in respect of land, machinery, equipment or otherwise) entered into as a method of financing the acquisition of the asset leased or hired;
- (viii) the capitalised element of the deferred purchase price of assets or services but not including the extent of any deferment on normal commercial trade terms (not exceeding six months) of the price payable for goods or services purchased in the ordinary course of business;
- (ix) any other transaction having the commercial effect of a borrowing; and
- (x) guarantees, indemnities or other suretyship obligations in respect of any of the foregoing.

For the purposes of this definition, no item shall be counted more than once, and indebtedness owed by one wholly owned member of the Group to another wholly owned member of the Group shall be excluded. Where it is necessary to calculate Borrowings in Sterling then any of the foregoing which is denominated in or calculated by reference to a currency other than Sterling shall be converted into Sterling at the Agent's spot rate of exchange on the day in question;

- (b) **Compliance Test Date** means a Mid Year Date or a Financial Year Date, as applicable;
- (c) **Consolidated Net Interest Payable** means the aggregate of all amounts of interest and equivalent financial expenses of the Company or its subsidiaries (other than a Securitisation Vehicle) payable to persons who are not the Company or such a subsidiary (calculated on a consolidated basis but after deducting any interest receivable from persons who are not the Company or such a subsidiary) attributable to, respectively, the twelve months respectively ending on each Mid Year Date and each Financial Year Date, which shall include any discount, fees and any element attributable to interest comprised in payments to lessors under finance leases or to owners under hire-purchase agreements, and also to include (without limitation and for the avoidance of doubt) any amounts of such interest and expenses which may not have accrued payable in any such period of twelve months but are attributable to that twelve months, but shall exclude for the period from the date of this Agreement to the date of completion of the Permitted Securitisation any break costs or other compensation payable by the Company or its subsidiaries to hedging providers in respect of hedging arrangements notified to the Agent as existing on or before the date of this Agreement. In calculating Consolidated Net Interest Payable for any period, due account shall be taken of (and a consequential adjustment, whether positive or negative, shall be made to reflect) the net benefit or loss (as the case may be) to the Company and its subsidiaries for or in respect of any payments accruing to or from them in such period pursuant to any interest rate swaps, hedging or analogous contracts for the mitigation of interest rate fluctuations or movements which they have entered into with third parties in the ordinary course of business in respect of financial indebtedness. The calculation of Consolidated Net Interest Payable shall be taken as at the last day of each such twelve months.

- (d) **Consolidated EBITDA** means the consolidated net profit of the Company and its subsidiaries (other than a Securitisation Vehicle) attributable to, respectively, the twelve months respectively ending on, for the purposes of Clause 7.2 (Margin adjustments) only, each Quarter Year Date (as that term is defined in Clause 7.2 (Margin adjustments)) and for any other purpose, each Mid Year Date and each Financial Year Date (before taxation, minority interest, extraordinary items, exceptional items, amortisation of goodwill, interest payable and any element attributed in the relevant accounts to interest comprised in payments to lessors under finance leases or to owners under hire-purchase agreements and other matters to be taken into account in calculating Consolidated Net Interest Payable), taken as at the last day of each such twelve months but before deduction of depreciation. For the purposes of Clause 7.2 and Clause 1(b) of this Schedule, Consolidated EBITDA shall be adjusted for any acquisitions and any disposals of assets or businesses (or any part thereof), provided the book value of any single asset or business (or part thereof) is equal to or more than £100,000 and which when aggregated with any other such assets or businesses (or part thereof) acquired or, as the case may be, disposed of is equal to or more than £10,000,000, by the Company and its subsidiaries during the relevant 12 month period by treating acquisitions as if they had occurred on the first day of that period and excluding net profit and other relevant amounts attributable to the assets or businesses (or part thereof) disposed of in that period;
- (e) **Consolidated Tangible Fixed Assets** means the consolidated value of the Group's (other than a Securitisation Vehicle) fixed assets less intangible assets all as calculated from time to time in accordance with generally accepted accounting principles consistently applied in the United Kingdom.
- (f) **Consolidated Net Debt** means, at any time, the aggregate (calculated on a consolidated basis) of the amount of Borrowings of the Company and its subsidiaries (other than a Securitisation Vehicle) after deducting the aggregate amounts of cash at bank held in the UK by the Company or any such subsidiary in a current or deposit account and which can at that time readily be withdrawn (but only to the extent not already taken into account in calculating the amount of **Borrowings**);
- (g) **Financial Year** means a financial year of the Company ending on one of the dates between 28th April and 7th May (inclusive);
- (h) **Financial Year Date** means the last day of a Financial Year;
- (i) **Mid Year Date** means the date which always falls 24 weeks after the previous Financial Year Date; and
- (j) **wholly-owned member of the Group** means the Company and each wholly-owned subsidiary of the Company (other than a Securitisation Vehicle).

## SCHEDULE 6

### FORM OF DIRECTORS' FINANCIAL CERTIFICATE

(Form of Mid Year Date and Financial Year Date Certificates)

To: [Agent]

[  
 ]

Attention: [ ]

[Date]

Dear Sirs

Facilities Agreement dated [ ] December, 2004

We refer to the Facilities Agreement dated [ ] December, 2004 and made between, amongst others, Greene King plc (the **Company**), Greene King Brewing and Retailing Limited and Greene King Acquisitions Limited (the **Guarantors**), the banks and financial institutions parties thereto from time to time (the **Banks**) and Lloyds TSB Bank plc Capital Markets as agent (the **Agent**), as the same has been amended and novated from time to time (the **Facility Agreement**). Terms defined in the Facility Agreement shall bear the same meaning herein.

We are two directors of the Borrowers and are duly authorised to give this certificate by the Borrowers, for the purposes of Paragraph 2(a) of Schedule 5 to the Facility Agreement:

1. As at [insert relevant Mid Year Date or Financial Year Date]:
  - (a) Consolidated Net Interest Payable for the preceding twelve months ending on that date was:
  - (b) Consolidated Net Debt was:
  - (c) Consolidated EBITDA for the preceding twelve months ending on that date was:
  - (d) Consolidated Tangible Fixed Assets was:
2. As at [insert the relevant Mid Year Date or Financial Year Date]:
  - (a) the ratio of (i) Consolidated EBITDA (for the period of twelve months ending on that date) to (ii) Consolidated Net Interest Payable (for that same period), was:
  - (b) the ratio of (i) Consolidated Net Debt to (ii) Consolidated EBITDA, was:
  - (c) and at any other time, Consolidated Net Debt did not exceed 80 per cent. of Consolidated Tangible Fixed Assets:

We therefore certify compliance with the requirements of Paragraph 1 of Schedule 5 as at that date.

3. The Net Debt Ratio was:

4. We attach an explanation of how the above has been calculated by reference to the enclosed [interim] [annual] accounts for the Company and its subsidiaries.

This certificate is given without any personal liability on the part of the above-mentioned two directors.

Yours faithfully

## SCHEDULE 7

### FORM OF TRANSFER CERTIFICATE

To: [AGENT] as Agent

From: [THE EXISTING BANK] (the Existing Bank) and [THE NEW BANK] (the New Bank)

Date: [ ]

Greene King plc - Facilities Agreement dated [ ] December, 2004 (the Facility Agreement)

We refer to the Facility Agreement. This is a Transfer Certificate.

1. The Existing Bank transfers by novation to the New Bank the Existing Bank's rights and obligations referred to in the Schedule below in accordance with the terms of the Facility Agreement.
2. The proposed Transfer Date is [ ].
3. The administrative details of the New Bank for the purposes of the Facility Agreement are set out in the Schedule.
4. [The Bank is a U.K. Non-Bank]<sup>1</sup>
5. This Transfer Certificate is governed by English law.

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<sup>1</sup> Include if applicable.

## **THE SCHEDULE**

### **Rights and obligations to be transferred by novation**

[insert relevant details, including applicable Commitment (or part)]

### **Administrative details of the New Bank**

[insert details of Facility Office, address for notices and payment details etc.]

**[EXISTING BANK]**

**[NEW BANK]**

By:

By:

The Transfer Date is confirmed by the Agent as [     ].

**[AGENT]**

By:



# SCHEDULE 8

## EXISTING BORROWINGS AND ENCUMBRANCES

### PART 1

#### EXISTING SUBSIDIARY BORROWINGS

Subsidiary incurring Borrowings	Details of Borrowings	Maximum principal amount of Borrowings
Greene King Brewing and Retailing Limited (registered no. 3298903)  Greene King Acquisitions Limited (registered no. 00315671)	Guaranteeing the Bridge Facility	£1,200,000,000
Greene King Brewing and Retailing Limited (registered no. 3298903)	Assignment of property leases to Dresdner Bank AG dated 18th July, 2002	£74,300,000
Greene King Brewing and Retailing Limited (registered no. 3298903)  Greene King Leasing No. 1 Limited (registered no. 00025090)  Greene King Leasing No. 2 Limited (registered no. 02191112)  Greene King Acquisitions Limited (registered no. 31567);  Beards of Sussex Group Limited (registered no. 3078740);  The Magic Pub Company Limited (registered no. 2926905);	Guaranteeing a Loan from Pubco Plc	£47,500,000

Canndhu Limited (registered no. 2838419);		
Greene King Services Limited (registered no. 3324493);		
Greene King Retail Services Limited (registered no. 3324496)		
Old English Inns plc (registered no. 3023704)		
Dalgety Taverns Limited (registered no. SC 147231)		
Morrells of Oxford Limited (registered no. 3474584)		
Unicorn Inns Limited (registered no. 1966060)		
Greene King (Leasing) Limited (registered no. 3043817)		
Patcham 1995 Limited (registered no. 2429587)		
Country Style Inns Limited (registered no. 2415786)		
Countryside Inns and Hotels Limited (registered no. 2838432)		
Wireland Limited (registered no. 1451397)		
Old English Inns Trustee Company Limited (registered no. 3864820);		
Old English Pubs Limited (registered no. 266075);		

<p>The Sun Hotel Hitchin Limited (registered no. 2920237);</p> <p>Greene King Neighbourhood Pub Holdings Limited (registered no. 04147397)</p> <p>Musicmeadow Limited (registered no. 04147404);</p> <p>Repairdesign Limited (registered no. 04147430);</p> <p>Greene King Neighbourhood Estate Pubs Limited (registered no. 05073303)</p> <p>Greene King Leisure Holdings Limited (registered no. 04589379)</p> <p>Greene King Leisure Pub Holdings Limited (registered no. 04589402)</p> <p>Greene King A Limited (registered no. 04589421)</p> <p>Greene King B limited (registered no. 04589436)</p> <p>Greene King C Limited (registered no. 04589454)</p> <p>Greene King D Limited (registered no. 04589462)</p> <p>Greene King E Limited (registered no. 04589434)</p>		
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<p>Sapphire Food North East No. 1 Limited (registered no. 4524259)</p> <p>Sapphire Food South West No. 2 Limited (registered no. 4524261)</p> <p>Sapphire Food North West No. 3 Limited (registered no. 4524286)</p> <p>Sapphire Food South East No. 4 Limited (registered no. 4524297)</p> <p>Sapphire Rural Destination No. 5 Limited (registered no. 4524306)</p>		
<p>Greene King Brewing and Retailing Limited (registered no. 3298903)</p> <p>Greene King Leasing No.1 Limited (registered no. 00025090)</p> <p>Greene King Leasing No.2 Limited (registered no. 02191112)</p> <p>Greene King Acquisitions Limited (registered no. 31567);</p> <p>Beards of Sussex Group Limited (registered no. 3078740);</p> <p>The Magic Pub Company Limited (registered no. 2926905);</p> <p>Canndhu Limited (registered no. 2838419);</p> <p>Greene King Services Limited (registered no. 3324493);</p>	<p>Guaranteeing 7.75 per cent. Debenture Stock due 27th May, 2027</p>	<p>£25,000,000</p>

Greene King Retail Services Limited (registered no. 3324496)		
Old English Inns plc (registered no. 3023704)		
Dalgety Taverns Limited (registered no. SC 147231)		
Morrells of Oxford Limited (registered no. 3474584)		
Unicorn Inns Limited (registered no. 1966060)		
Greene King (Leasing) Limited (registered no. 3043817)		
Patcham 1995 Limited (registered no. 2429587)		
Country Style Inns Limited (registered no. 2415786)		
Countryside Inns and Hotels Limited (registered no. 2838432)		
Wireland Limited (registered no. 1451397)		
Old English Inns Trustee Company Limited (registered no. 3864820);		
Old English Pubs Limited (registered no. 266075);		
The Sun Hotel Hitchin Limited (registered no. 2920237);		
Greene King Neighbourhood Pub Holdings Limited (registered no. 04147397)		
Musicmeadow Limited (registered no. 04147404);		
Repairdesign Limited (registered no. 04147430);		

Greene King Neighbourhood Estate Pubs Limited (registered no. 05073303)		
Greene King Leisure Holdings Limited (registered no. 04589379)		
Greene King Leisure Pub Holdings Limited (registered no. 04589402)		
Greene King A Limited (registered no. 04589421)		
Greene King B limited (registered no. 04589436)		
Greene King C Limited (registered no. 04589454)		
Greene King D Limited registered no. 04589462)		
Greene King E Limited (registered no. 04589434)		
Sapphire Food North East No. 1 Limited (registered no. 4524259)		
Sapphire Food South West No. 2 Limited (registered no. 4524261)		
Sapphire Food North West No. 3 Limited (registered no. 4524286)		
Sapphire Food South East No. 4 Limited (registered no. 4524297)		

Sapphire Rural Destination No. 5 Limited (registered no. 4524306		
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## PART 2

### EXISTING ENCUMBRANCES

Group member creating Encumbrance	Details of Encumbrance	Maximum principal amount of secured
<p>Green King plc (registered no. 24511)</p> <p>Greene King Brewing and Retailing Limited (registered no. 3298903)</p>	<p>Assignment of property leases to Dresdner Bank AG dated 18th July, 2002</p>	<p>£74,300,000</p>
<p>Greene King PLC (registered no. 24511)</p> <p>Greene King Brewing and Retailing Limited (registered no. 3298903)</p> <p>Greene King Leasing No.1 Limited (registered no. 00025090)</p> <p>Greene King Leasing No.2 Limited (registered no. 02191112)</p> <p>Greene King Acquisitions Limited (registered no. 31567)</p> <p>Beards of Sussex Group Limited (registered no. 3078740)</p> <p>The Magic Pub Company Limited (registered no. 2926905)</p> <p>Canndhu Limited (registered no. 2838419)</p> <p>Greene King Services Limited (registered no. 3324493)</p> <p>Greene King Retail Services Limited (registered no. 3324496)</p> <p>Old English Inns plc (registered</p>	<p>Floating charge over all assets and undertaking dated 29th July, 1991 and supplemented by a deed on 2nd May, 1997 to secure all monies owing to Pubco Plc</p>	<p>£47,500,000</p>



no. 3023704)		
Dalgety Taverns Limited (registered no. SC 147231)		
Morrells of Oxford Limited (registered no. 3474584)		
Unicorn Inns Limited (registered no. 1966060)		
Greene King (Leasing) Limited (registered no. 3043817)		
Patcham 1995 Limited (registered no. 2429587)		
Country Style Inns Limited (registered no. 2415786)		
Countryside Inns and Hotels Limited (registered no. 2838432)		
Wireland Limited (registered no. 1451397)		
Old English Inns Trustee Company Limited (registered no. 3864820)		
Old English Pubs Limited (registered no. 266075)		
The Sun Hotel Hitchin Limited (registered no. 2920237)		
Greene King Neighbourhood Pub Holdings Limited (registered no. 04147397)		
Musicmeadow Limited (registered no. 04147404)		
Repairdesign Limited (registered no. 04147430)		
Greene King Neighbourhood Estate Pubs Limited (registered no. 05073303)		
Greene King Leisure Holdings Limited (registered no. 04589379)		

<p>Greene King Leisure Pub Holdings Limited (registered no. 04589402)</p> <p>Greene King A Limited (registered no. 04589421)</p> <p>Greene King B limited (registered no. 04589436)</p> <p>Greene King C Limited (registered no. 04589454)</p> <p>Greene King D Limited (registered no. 04589462)</p> <p>Greene King E Limited (registered no. 04589434)</p> <p>Sapphire Food North East No. 1 Limited (registered no. 4524259)</p> <p>Sapphire Food South West No. 2 Limited (registered no. 4524261)</p> <p>Sapphire Food North West No. 3 Limited (registered no. 4524286)</p> <p>Sapphire Food South East No. 4 Limited (registered no. 4524297)</p> <p>Sapphire Rural Destination No. 5 Limited (registered no. 4524306)</p>		
<p>Greene King plc (registered no. 24511)</p> <p>Greene King Brewing and Retailing Limited (registered no. 3298903)</p> <p>Greene King Leasing No.1 Limited (registered no. 00025090)</p> <p>Greene King Leasing No.2 Limited (registered no. 02191112)</p>	<p>Floating charge over all assets and undertaking pursuant to trust deeds dated 27th May, 1997 and 29th July, 1991 to secure 7.75 per cent. debenture stock due 27th May, 2027</p>	<p>£25,000,000</p>

Greene King Acquisitions Limited (registered no. 31567);		
Beards of Sussex Group Limited (registered no. 3078740);		
The Magic Pub Company Limited (registered no. 2926905);		
Canndhu Limited (registered no. 2838419);		
Greene King Services Limited (registered no. 3324493);		
Greene King Retail Services Limited (registered no. 3324496)		
Old English Inns plc (registered no. 3023704)		
Dalgety Taverns Limited (registered no. SC 147231)		
Morrells of Oxford Limited (registered no. 3474584)		
Unicorn Inns Limited (registered no. 1966060)		
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Countryside Inns and Hotels Limited (registered no. 2838432)		
Wireland Limited (registered no. 1451397)		
Old English Inns Trustee Company Limited (registered no. 3864820);		

<p>Old English Pubs Limited (registered no. 266075);</p> <p>The Sun Hotel Hitchin Limited (registered no. 2920237);</p> <p>Greene King Neighbourhood Pub Holdings Limited (registered no. 04147397)</p> <p>Musicmeadow Limited (registered no. 04147404);</p> <p>Repairdesign Limited (registered no. 04147430);</p> <p>Greene King Neighbourhood Estate Pubs Limited (registered no. 05073303)</p> <p>Greene King Leisure Holdings Limited (registered no. 04589379)</p> <p>Greene King Leisure Pub Holdings Limited (registered no. 04589402)</p> <p>Greene King A Limited (registered no. 04589421)</p> <p>Greene King B limited (registered no. 04589436)</p> <p>Greene King C Limited (registered no. 04589454)</p> <p>Greene King D Limited (registered no. 04589462)</p> <p>Greene King E Limited (registered no. 04589434)</p> <p>Sapphire Food North East No. 1 Limited (registered no. 4524259)</p> <p>Sapphire Food South West No. 2 Limited (registered no. 4524261)</p>		
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<p>Sapphire Food North West No. 3 Limited (registered no. 4524286)</p> <p>Sapphire Food South East No. 4 Limited (registered no. 4524297)</p> <p>Sapphire Rural Destination No. 5 Limited (registered no. 4524306)</p>		
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**SCHEDULE 9**

**FORM OF ACCESSION AGREEMENT**

To: [AGENT] as Agent

From: Greene King plc and [PROPOSED GUARANTOR/BORROWER]

Date: [ ]

**GREENE KING PLC – £450,000,000 Credit Agreement**

**Dated [ ] December, 2004 (the Agreement)**

We refer to the Agreement. This is an Accession Agreement.

[Name of company] of [address/registered office] agrees to become an Additional [Borrower/Guarantor] and to be bound by the terms of the Agreement as an Additional [Borrower/Guarantor].

This Accession Agreement is governed by English law.

GREENE KING PLC

By:

[PROPOSED BORROWER/GUARANTOR]

By:

**SCHEDULE 10**

**FORM OF MARGIN CERTIFICATE**

To: [AGENT] as Facility Agent

From: Greene King plc

Date: [ ]

**GREENE KING PLC - £450,000,000 Credit Agreement  
dated [ ] December, 2004 (the Agreement)**

1. We refer to the Agreement. This is the Margin Certificate.
2. We confirm that as at [relevant testing date]:
  - (a) the ratio of Consolidated Net Debt to Consolidated EBITDA is [ ]:[ ]; and
  - (b) on the basis of the above, the applicable Margin is [ ] per cent. per annum.
3. We set out below the calculations establishing the figures in paragraph 2 above.  
[ ]

Greene King Plc

By:

## SIGNATORIES

### The Company

SIGNED by  
For and on behalf of

**GREENE KING PLC**

### The Guarantors

SIGNED by  
For and on behalf of

**GREENE KING BREWING AND RETAILING LIMITED**

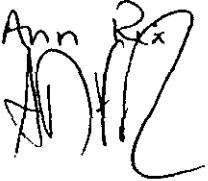
SIGNED by  
For and on behalf of

**GREENE KING ACQUISITIONS LIMITED**

### The Mandated Lead Arrangers

SIGNED by *François REGNIER*  
For and on behalf of 

**BNP PARIBAS**

*Ann Rex*  


SIGNED by  
For and on behalf of

**DRESDNER KLEINWORT WASSERSTEIN LIMITED**



## SIGNATORIES

### The Company

SIGNED by  
For and on behalf of

**GREENE KING PLC**

### The Guarantors

SIGNED by  
For and on behalf of

**GREENE KING BREWING AND RETAILING LIMITED**

SIGNED by  
For and on behalf of

**GREENE KING ACQUISITIONS LIMITED**

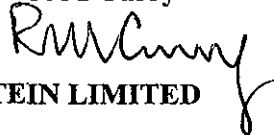
### The Mandated Lead Arrangers

SIGNED by  
For and on behalf of

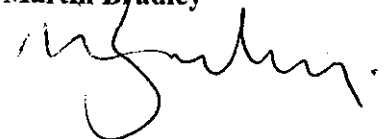
**BNP PARIBAS**

SIGNED by  
For and on behalf of

**Robert M Curry**



**Martin Bradley**



**DRESDNER KLEINWORT WASSERSTEIN LIMITED**

**SIGNED** by  
For and on behalf of



*John GAGE*

**LLOYDS TSB BANK PLC CAPITAL MARKETS**

**SIGNED** by  
For and on behalf of

**THE ROYAL BANK OF SCOTLAND PLC**

**The Original Banks**

**SIGNED** by  
For and on behalf of

**LLOYDS TSB BANK PLC**

**SIGNED** by  
For and on behalf of

**ALLIANCE & LEICESTER COMMERCIAL BANK PLC**

**SIGNED** by  
For and on behalf of

**ALLIED IRISH BANKS, P.L.C.**

**SIGNED** by  
For and on behalf of

**BARCLAYS BANK PLC**

**SIGNED** by  
For and on behalf of

**BNP PARIBAS**

**SIGNED** by  
For and on behalf of

**SIGNED by**  
For and on behalf of

**LLOYDS TSB BANK PLC CAPITAL MARKETS**

**SIGNED by**  
For and on behalf of



**THE ROYAL BANK OF SCOTLAND PLC**

**The Original Banks**

**SIGNED by**  
For and on behalf of

**LLOYDS TSB BANK PLC**

**SIGNED by**  
For and on behalf of

**ALLIANCE & LEICESTER COMMERCIAL BANK PLC**

**SIGNED by**  
For and on behalf of

**ALLIED IRISH BANKS, P.L.C.**

**SIGNED by**  
For and on behalf of

**BARCLAYS BANK PLC**

**SIGNED by**  
For and on behalf of

**BNP PARIBAS**

**SIGNED by**

**SIGNED by**  
For and on behalf of

**LLOYDS TSB BANK PLC CAPITAL MARKETS**

**SIGNED by**  
For and on behalf of

**THE ROYAL BANK OF SCOTLAND PLC**

**The Original Banks**

**SIGNED by**  
For and on behalf of

  
NIGEL MARTYN

**LLOYDS TSB BANK PLC**

**SIGNED by**  
For and on behalf of

**ALLIANCE & LEICESTER COMMERCIAL BANK PLC**

**SIGNED by**  
For and on behalf of

**ALLIED IRISH BANKS, P.L.C.**

**SIGNED by**  
For and on behalf of

**BARCLAYS BANK PLC**

**SIGNED by**  
For and on behalf of

**BNP PARIBAS**

**SIGNED by**  
For and on behalf of

**SIGNED by**  
For and on behalf of

**LLOYDS TSB BANK PLC CAPITAL MARKETS**

**SIGNED by**  
For and on behalf of

**THE ROYAL BANK OF SCOTLAND PLC**

**The Original Banks**

**SIGNED by**  
For and on behalf of

**LLOYDS TSB BANK PLC**

**SIGNED by** *ANDREW B. SWANN*  
For and on behalf of

**ALLIANCE & LEICESTER COMMERCIAL BANK PLC**



**SIGNED by**  
For and on behalf of

**ALLIED IRISH BANKS, P.L.C.**

**SIGNED by**  
For and on behalf of

**BARCLAYS BANK PLC**

**SIGNED by**  
For and on behalf of

**BNP PARIBAS**

**SIGNED by**  
For and on behalf of

**SIGNED by**  
For and on behalf of

**LLOYDS TSB BANK PLC CAPITAL MARKETS**

**SIGNED by**  
For and on behalf of

**THE ROYAL BANK OF SCOTLAND PLC**

**The Original Banks**

**SIGNED by**  
For and on behalf of

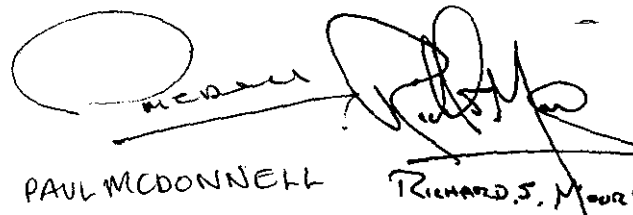
**LLOYDS TSB BANK PLC**

**SIGNED by**  
For and on behalf of

**ALLIANCE & LEICESTER COMMERCIAL BANK PLC**

**SIGNED by**  
For and on behalf of

**ALLIED IRISH BANKS, P.L.C.**



PAUL McDONNELL      RICHARD S. MOORE

**SIGNED by**  
For and on behalf of

**BARCLAYS BANK PLC**

**SIGNED by**  
For and on behalf of

**BNP PARIBAS**

**SIGNED by**  
For and on behalf of

**SIGNED** by  
For and on behalf of

**LLOYDS TSB BANK PLC CAPITAL MARKETS**

**SIGNED** by  
For and on behalf of

**THE ROYAL BANK OF SCOTLAND PLC**

**The Original Banks**

**SIGNED** by  
For and on behalf of

**LLOYDS TSB BANK PLC**


**SIGNED** by  
For and on behalf of

**ALLIANCE & LEICESTER COMMERCIAL BANK PLC**

**SIGNED** by  
For and on behalf of

**ALLIED IRISH BANKS, P.L.C.**

**SIGNED** by  
For and on behalf of

 **ROBERT JULIAN SIML**

**BARCLAYS BANK PLC**

**SIGNED** by  
For and on behalf of

**BNP PARIBAS**

**SIGNED** by  
For and on behalf of

**SIGNED** by  
For and on behalf of

**LLOYDS TSB BANK PLC CAPITAL MARKETS**

**SIGNED** by  
For and on behalf of

**THE ROYAL BANK OF SCOTLAND PLC**

**The Original Banks**

**SIGNED** by  
For and on behalf of

**LLOYDS TSB BANK PLC**

**SIGNED** by  
For and on behalf of

**ALLIANCE & LEICESTER COMMERCIAL BANK PLC**

**SIGNED** by  
For and on behalf of


**ALLIED IRISH BANKS, P.L.C.**

**SIGNED** by  
For and on behalf of

**BARCLAYS BANK PLC**

**SIGNED** by  
For and on behalf of

**BNP PARIBAS**

*François Régulier*  


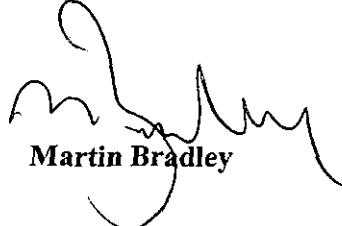
*Anny Bja*  


**SIGNED** by  
For and on behalf of



**SIGNED by**  
For and on behalf of

  
**Robert M Curry**

  
**Martin Bradley**

**DRESDNER BANK AG LONDON BRANCH**

**SIGNED by**  
For and on behalf of

**THE ROYAL BANK OF SCOTLAND PLC**

**The Agent**

**SIGNED by**  
For and on behalf of

**LLOYDS TSB BANK PLC CAPITAL MARKETS**

For and on behalf of

**DRESDNER BANK AG LONDON BRANCH**

**SIGNED** by

For and on behalf of

A handwritten signature in dark ink, appearing to be 'M. Wood', written over the text 'For and on behalf of'.

**THE ROYAL BANK OF SCOTLAND PLC**

**The Agent**

**SIGNED** by

For and on behalf of

**LLOYDS TSB BANK PLC CAPITAL MARKETS**

**DRESDNER BANK AG LONDON BRANCH**

**SIGNED** by  
For and on behalf of

**THE ROYAL BANK OF SCOTLAND PLC**

**The Agent**

**SIGNED** by  
For and on behalf of



JOHN GAGE

**LLOYDS TSB BANK PLC CAPITAL MARKETS**