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## **FORM 20-F**

**Nomad Foods Ltd - NOMD**

**Filed: February 27, 2020 (period: December 31, 2019)**

Annual and transition report of foreign private issuers under sections 13 or 15(d)

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**FORM 20-F**

(Mark One)

- Registration Statement Pursuant to Section 12(b) or (g) of the Securities Exchange Act of 1934
- Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the Fiscal Year Ended **December 31, 2019**
- Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
- Shell Company Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Commission file number 001-37669

**Nomad Foods Limited**

(Exact Name of Registrant as Specified in Its Charter)

British Virgin Islands

(Jurisdiction of Incorporation or Organization)

No. 1 New Square

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Feltham, Middlesex TW14 8HA

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(Name, Telephone, E-mail and/or Facsimile Number and Address of Company Contact Person)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Title of Each Class	Trading Symbol (s)	Name of Each Exchange on which Registered
Ordinary Shares, no par value	NOMD	New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act: None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act: Preferred Shares, no par value

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report. 194,542,957 Ordinary Shares and 1,500,000 Preferred Shares

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  Yes  No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.  Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.  Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).  Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or an emerging growth company. See definition of "large accelerated filer, accelerated filer, and emerging growth company" in Rule 12b-2 of the Exchange Act:

Large accelerated filer  Accelerated filer  Non-accelerated filer  Emerging growth company

If an emerging growth company that prepares its financial statements in accordance with U.S. GAAP, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards† provided pursuant to Section 13(a) of the Exchange Act.

†The term "new or revised financial accounting standard" refers to any update issued by the Financial Accounting Standards Board to its Accounting Standards Codification after April 5, 2012.

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP  International Financial Reporting Standards as Issued by the International Accounting Standards Board  Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.  Item 17  Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  Yes  No

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## TERMS USED IN THIS REPORT

Unless the context otherwise requires, in this annual report, the term(s) (1) “we,” “us,” “our,” “Company,” “Nomad” and “our business” refer to Nomad Foods Limited (formerly known as Nomad Holdings Limited) and its consolidated subsidiaries and (2) “Iglo” and “the Iglo Group” refer solely to Nomad Foods Europe Holdings Limited (previously named Iglo Foods Holdings Limited) and its consolidated subsidiaries which we purchased on June 1, 2015. All references in this annual report to the “Predecessor” refer to Iglo for all periods prior to its acquisition by the Company (the “Iglo Acquisition”) and all references to the “Successor” refer to the Company for all periods after the Iglo Acquisition.

## PRESENTATION OF FINANCIAL AND OTHER INFORMATION

In this annual report, references to “Euro” and “€” are to the single currency adopted by participating member states of the European Union (“EU”) relating to Economic and Monetary Union, references to “\$”, “US\$” and “U.S. Dollars” are to the lawful currency of the United States of America, and references to “Pound Sterling”, “Sterling” and “£” are to the lawful currency of the United Kingdom (“UK”).

The historical financial information for the Company and the Predecessor has been prepared in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board (“IFRS IASB”) and International Financial Reporting Standards as endorsed by the European Union (together “IFRS”) which can differ in certain significant respects from U.S. GAAP.

Unless otherwise noted, all financial information for the Company and the Predecessor provided in this annual report is denominated in Euros.

### Historical Financial Information

This annual report includes our consolidated financial statements at and as of the years ended December 31, 2019 (the “Fiscal 2019 Period”), December 31, 2018 (the “Fiscal 2018 Period”) and December 31, 2017 (the “Fiscal 2017 Period”).

### Non-IFRS Financial Measures

In this annual report, we present certain supplemental financial measures that are not recognized by IFRS. These financial measures are unaudited and have not been prepared in accordance with IFRS, SEC requirements or the accounting standards of any other jurisdiction. The non-IFRS financial measures used in this annual report are Adjusted EBITDA and Adjusted EBITDA margin. For additional information on why we present non-IFRS financial measures, the limitations associated with using non-IFRS financial measures and reconciliations of our non-IFRS financial measures to the most comparable applicable IFRS measure, see *Item 5: Operating and Financial Review and Prospects* .

## INDUSTRY AND MARKET DATA

We obtained the industry, market and competitive position data throughout this annual report from our own internal estimates and research as well as from industry and general publications and research, surveys and studies conducted by Euromonitor. Industry surveys and publications generally state that the information contained therein has been obtained from sources believed to be reliable, but the accuracy and completeness of the information contained in industry publications is not guaranteed. While we believe that each of these studies and publications is reliable, we have not independently verified market and industry data from third-party sources. While we believe our internal company research is reliable and the definitions of our market and industry are appropriate, neither this research nor these definitions have been verified by any independent source. Further, while we believe the market opportunity information included in this annual report is generally reliable, such information is inherently imprecise. In addition, projections, assumptions and estimates of the future performance of the industry in which we operate and our future performance are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in *Item 3D: Key Information - Risk Factors*. These and other factors could cause results to differ materially from those expressed in the estimates made by the independent parties and by us. See *Cautionary Note Regarding Forward-Looking Statements* .

Market share data presented throughout this annual report is measured by retail sales value. The frozen food market data we refer to throughout this annual report includes the following categories: Frozen Processed Meat, Frozen Processed Seafood, Frozen Meat Substitutes, Frozen Pizza, Frozen Ready Meals, Frozen Noodles, Frozen Soup, Frozen Baked Goods and Processed Frozen Vegetables.

## TRADEMARKS

We operate under a number of trademarks, including, among others, “*Iglo*,” “*Birds Eye*,” “*Goodfella’s*,” “*Aunt Bessie’s*” and “*Findus*”, all of which are registered under applicable intellectual property laws. This annual report contains references to our trademarks and service marks and to those belonging to other entities. Solely for convenience, trademarks and trade names referred to in this annual report may appear without the ® or TM symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent possible under applicable law, our rights or the rights of the applicable licensor to these trademarks and trade names. We do not intend our use or display of other companies’ trade names, trademarks or service marks to imply a relationship with, or endorsement or sponsorship of us by, any other companies.

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

Some of the statements in this annual report constitute forward-looking statements that do not directly or exclusively relate to historical facts. You should not place undue reliance on such statements because they are subject to numerous uncertainties and factors relating to our operations and business environment, all of which are difficult to predict and many of which are beyond our control. Forward-looking statements include information concerning our possible or assumed future results of operations, including descriptions of our business strategy. These statements often include words such as “may,” “will,” “should,” “believe,” “expect,” “anticipate,” “intend,” “plan,” “estimate” or similar expressions. Forward-looking statements included in this annual report include statements regarding:

- our beliefs and intentions regarding our strategic initiatives and their impact on the growth and profitability of our business;
- our intent to profitably grow our business through our strategic initiatives;
- our intent to seek additional acquisition opportunities in food products and our expectation regarding competition for acquisitions;
- our beliefs regarding the anticipated impact of the exit by the UK from the EU (“Brexit”) on our business;
- our expectations concerning our ability to fund our liquidity requirements and to raise cash through equity and debt offerings;
- our expectations concerning our capital expenditures in 2020;
- our beliefs regarding our sales, marketing and advertising strategies, competitive strengths and ability to successfully compete in the markets in which we participate;
- our expectations concerning consumer demand for our products, our future growth opportunities, market share and sales channels, including online channels;
- our beliefs and intentions regarding the impact of key industry trends on our business, our actions in response to such trends and the resulting impact on our profitability and competitive position;
- our future operating and financial performance;
- our intent to settle any Founder Preferred Shares Annual Dividend Amount (as defined herein) with equity;
- our belief that we have sufficient spare capacity to accommodate future growth in our main product categories and to accommodate the seasonal nature of some of our products;
- our beliefs and intentions regarding our sustainability program;
- our intent to rely on some of the available foreign private issuer exemptions to the New York Stock Exchange (the “NYSE”) corporate governance rules; and
- the accuracy of our estimates and key judgments regarding certain tax matters and accounting valuations.

The forward-looking statements contained in this annual report are based on assumptions that we have made in light of our management’s experience in the industry as well as our perceptions of historical trends, current conditions, expected future developments and other factors that we believe are appropriate under the circumstances. As you read and consider this annual report, you should understand that these statements are not guarantees of performance or results. They involve known and unknown risks, uncertainties and assumptions. Although we believe that these forward-looking statements are based on reasonable assumptions, you should be aware that many factors could affect our actual financial results or results of operations and could cause actual results to differ materially from those in these forward-looking statements.

These factors include but are not limited to:

- our ability to successfully implement our strategic initiatives;
- the anticipated benefits from the acquisition of the *Aunt Bessie's* and *Goodfella's* brands may take longer to realize and may cost more to achieve than expected;
- uncertainty about the terms and timing of the trade agreement between the UK and the EU associated with Brexit, as well as the potential adverse impact of Brexit on currency exchange rates, global economic conditions and cross-border agreements that affect our business;
- the loss of any of our executive officers or members of our senior management team or other key employees;
- the loss of any of our major customers or a decrease in demand for our products;
- our ability to effectively compete in our markets;
- changes in consumer preferences and our failure to anticipate and respond to such changes or to successfully develop and renovate products;
- our ability to successfully interpret and respond to key industry trends and to realize the expected benefits of our responsive actions;
- our ability to protect our brand names and trademarks;
- the commercial success of our *Green Cuisine* brand of products, including as a result of its expansion into continental Europe, and other innovations introduced to the markets;
- economic conditions that may affect our future performance including exchange rate fluctuations;
- fluctuations in the availability of food ingredients and packaging materials that we use in our products;
- our ability to effectively mitigate factors that negatively impact our supply of raw materials, including pea supply;
- disruptions in our information technology systems, supply network, manufacturing and distribution facilities or our workforce or the workforce of our suppliers;
- our ability to continue to comply with covenants and the terms of our credit instruments and our ability to obtain additional financing, as needed, to fund our liquidity requirements and capital expenditures;
- availability of debt and equity financing under favorable terms;
- increases in operating costs, including labor costs, and our ability to manage our cost structure;
- the occurrence of liabilities not covered by our insurance;
- our ability to successfully implement, and engage other stakeholders in implementing, our sustainability program;
- the loss of our financial arrangements with respect to receivables factoring;
- the loss of our foreign private issuer status;
- the effects of reputational damage from unsafe or poor quality food products, particularly if such issues involve products we manufactured or distributed;
- our failure to comply with, and liabilities related to, environmental, health and safety laws and regulations; and
- changes in applicable laws or regulations.

These and other factors are more fully discussed in *Item 3D: Key Information - Risk Factors* and elsewhere in this annual report. These risks could cause actual results to differ materially from those implied by forward-looking statements in this annual report.

All information contained in this annual report is materially accurate and complete as of the date of this annual report. You should keep in mind, however, that any forward-looking statement made by us in this annual report, or elsewhere, speaks only as of the date on which we make it. New risks and uncertainties come up from time to time, and it is impossible for us to predict these events or how they may affect us. We do not undertake any obligation to update or revise any forward-looking statements after the date of this annual report, whether as a result of new information, future events or otherwise, except as required by law. In light of these risks and uncertainties, you should keep in mind that any event described in a forward-looking statement made in this annual report or elsewhere might not occur.

## PART I

### Item 1: Identity of Directors, Senior Management and Advisers

#### A. Directors and Senior Management

Not applicable.

#### B. Advisers

Not applicable.

#### C. Auditors

Not applicable.

### Item 2: Offer Statistics and Expected Timetable

#### A. Offer Statistics

Not applicable.

#### B. Method and Expected Timetable

Not applicable.

### Item 3: Key Information

#### A. Selected Financial Data

The following table sets forth selected historical consolidated financial and other data for the Company and the Predecessor for the periods presented. The selected historical consolidated financial data below should be read in conjunction with our Audited Consolidated Financial Statements and related notes (Item 18), as well as *Item 4: Information on the Company* and *Item 5: Operating and Financial Review and Prospects* of this annual report.

Following the Iglo Acquisition, Iglo is considered to be our Predecessor under applicable SEC rules and regulations.

In June 2015, the Board of Directors approved a change in Nomad's fiscal year end from March 31 to December 31 in order to align Nomad's fiscal year with the Iglo Group's historical reporting calendar. As a result of this change, the selected historical consolidated financial data includes financial information for the Successor for the twelve month periods ended December 31, 2019, 2018, 2017 and 2016 and the nine month period from April 1, 2015 to December 31, 2015.

The statement of income data for the Fiscal 2019 Period, Fiscal 2018 Period and Fiscal 2017 Period and the balance sheet data as of December 31, 2019 and 2018 have been derived from our audited consolidated financial statements included elsewhere in this annual report. The statement of income data for the twelve months ended December 31, 2016, for the nine months ended December 31, 2015, for the twelve months ended March 31, 2015, and for the Predecessor, for the five months ended May 31, 2015 and balance sheet information for Nomad as of December 31, 2016 and 2015 have been derived from audited financial statements not included elsewhere in this annual report.

Neither the Successor nor the Predecessor declared or paid cash dividends in the periods presented. All results are continuing.

	Successor Year ended Dec 31 2019 €m	Successor Year ended Dec 31 2018 €m	Successor Year ended Dec 31 2017 €m	Successor Year ended Dec 31 2016 €m	Successor 9 months ended Dec 31 2015 €m	Successor Year ended Mar 31 2015 €m	Predecessor 5 months ended May 31 2015 €m
<b>Statement of Income data:</b>							
Revenue	2,324.3	2,172.8	1,956.6	1,927.7	894.2	—	640.3
Cost of sales	(1,626.4)	(1,519.3)	(1,357.2)	(1,356.7)	(663.0)	—	(417.9)
<b>Gross profit</b>	<b>697.9</b>	<b>653.5</b>	<b>599.4</b>	<b>571.0</b>	<b>231.2</b>	<b>—</b>	<b>222.4</b>
Other operating expenses	(359.9)	(352.7)	(319.3)	(298.4)	(138.6)	(0.7)	(109.5)
Exceptional items	(54.5)	(17.7)	(37.2)	(134.5)	(58.1)	(0.7)	(84.3)
Charge related to Founder Preferred Shares Annual Dividend Amount	—	—	—	—	(349.0)	(165.8)	—
Credit/(Charge) related to Warrant Redemption Liability	—	—	—	—	0.4	(0.4)	—
<b>Operating profit/(loss)</b>	<b>283.5</b>	<b>283.1</b>	<b>242.9</b>	<b>138.1</b>	<b>(314.1)</b>	<b>(167.6)</b>	<b>28.6</b>
Net finance (costs)/income	(73.2)	(56.0)	(74.4)	(62.1)	(35.5)	0.1	(115.7)
<b>Profit/(loss) before tax</b>	<b>210.3</b>	<b>227.1</b>	<b>168.5</b>	<b>76.0</b>	<b>(349.6)</b>	<b>(167.5)</b>	<b>(87.1)</b>
Taxation	(56.7)	(56.6)	(32.0)	(39.6)	12.3	—	(40.9)
<b>Profit/(loss) for the period</b>	<b>153.6</b>	<b>170.5</b>	<b>136.5</b>	<b>36.4</b>	<b>(337.3)</b>	<b>(167.5)</b>	<b>(128.0)</b>
Basic weighted number of shares	192,004,803	175,622,538	176,080,272	183,518,743	145,590,810	50,025,000	n.p.
Diluted weighted number of shares	198,425,877	175,793,631	184,786,162	183,528,621	145,590,810	50,025,000	n.p.
Basic earnings/(loss) per share	0.80	0.97	0.78	0.20	(2.32)	(3.35)	n.p.
Diluted earnings/(loss) per share	0.78	0.97	0.74	0.20	(2.32)	(3.35)	n.p.
<b>Balance Sheet data:</b>							
Total assets	5,904.5	5,340.8	4,601.7	4,709.5	4,929.7	447.4	n.p.
Total equity	2,556.7	2,059.1	1,852.6	1,902.5	1,888.1	274.9	n.p.
Share capital	—	—	—	—	—	—	n.p.

n.p. not presented

## B. Capitalization and Indebtedness

Not applicable.

## C. Reasons for the Offer and Use of Proceeds

Not applicable.

## D. Risk Factors

*An investment in our ordinary shares carries a significant degree of risk. You should carefully consider the following risks and other information in this annual report, including our consolidated financial statements and related notes included elsewhere in this annual report, before you decide to purchase our ordinary shares. Additional risks and uncertainties of which we are not presently aware or that we currently deem immaterial could also affect our business operations and financial condition. If any of these risks actually occur, our business, financial condition, results of operations or prospects could be materially affected. As a result, the trading price of our ordinary shares could decline and you could lose part or all of your investment.*

### Risks Related to Our Business and Industry

***We operate in a highly competitive market and our failure to compete effectively could adversely affect our results of operations.***

The market for frozen food is highly competitive, and further consolidation in the industry would likely increase competition. Our competitors include retailers who promote private label products and well-established branded producers that operate on both a national and an international basis across single or multiple frozen food categories. We also face competition more generally from chilled food, distributors and retailers of fresh products, baked goods and ready-made meals. Our competitors generally compete with us on the basis of price, actual or perceived quality of products, brand recognition, consumer loyalty, product variety, new product development, customer service and improvements to existing products. We may not successfully compete with our existing competitors and new competitors may enter the market. Discounters are supermarket retailers which offer a narrow range of food and grocery products at discounted prices and which typically focus on non-branded rather than branded products. The increase in discounter sales may adversely affect the sales of our branded products. Further, we are increasing our investment in online sales (sales made through retailers' online platforms). However, there is no guarantee we will achieve our expected return on investment from this strategy. The growth of online retailers, and the corresponding growth in our online sales, may also adversely affect our competitive position.

In addition, we cannot predict the pricing or promotional actions of our competitors or their effect on consumer perceptions or the success of our own advertising and promotional efforts. Our competitors develop and launch products targeted to compete directly with our products. Our retail customers, most of which promote their own private label products, control the shelf space allocations within their stores. As a result, they may allocate more shelf space to private label products or to our branded competitors' products in accordance with their respective promotional strategies. Decreases in shelf space allocated to our products, increases in competitor promotional activity, aggressive marketing strategies by competitors or other factors may require us to reduce our prices or invest greater amounts in advertising and promotion of our products to ensure our products remain competitive.

Furthermore, some of our competitors may have substantially greater financial, marketing and other resources than we have. This creates competitive pressures that could cause us to lose market share or require us to lower prices, increase advertising expenditures or increase the use of discounting or promotional campaigns. These competitive factors may also restrict our ability to increase prices, including in response to commodity and other cost increases. If we are unable to continue to respond effectively to these and other competitive pressures, our customers may reduce orders of our products, may insist on prices that erode our margins or may allocate less shelf space and fewer displays for our products. These or other developments could materially and adversely affect our sales volumes and margins and result in a decrease in our operating results, which could have a material adverse effect on our business, financial condition and results of operations.

***Sales of our products are subject to changing consumer preferences and trends; if we do not correctly anticipate such changes, our sales and profitability may decline.***

There are a number of trends in consumer preferences which have an impact on us and the frozen food industry as a whole. These include, among others, preferences for speed, convenience and ease of food preparation; natural, nutritious and well-proportioned meals; products that are sustainably sourced and produced and are otherwise environmentally friendly; as well as a recent trend towards meat substitutes. Concerns as to the health impacts and nutritional value of certain foods may increasingly result in food producers being encouraged or required to produce products with reduced levels of salt, sugar and fat and to eliminate trans-fatty acids and certain other ingredients. Consumer preferences are also shaped by concern over waste reduction and the environmental impact of products. The success of our business depends on both the continued appeal of our products and, given the varied backgrounds and tastes of our customer base, our ability to offer a sufficient range of products to satisfy a broad spectrum of preferences. Any shift in consumer preferences in the UK, Germany, France, Italy, Sweden or any other material market in which we operate could have a material adverse effect on our business. Consumer tastes are also susceptible to change. In addition, the growing presence of alternative retail channels could negatively impact our sales if we fail to adapt. For example, consumers with increasingly busy lifestyles are choosing the online grocery channel as a more convenient and faster way of purchasing their food products, and are also increasingly using the internet for meal ideas. Our competitiveness therefore depends on our ability to predict and quickly adapt to consumer preferences and trends, exploiting profitable opportunities for product development without alienating our existing consumer base or focusing excessive resources or attention on unprofitable or short-lived trends. All of these efforts require significant research and development and marketing investments. If we are unable to respond on a timely and appropriate basis to changes in demand or consumer preferences and trends, our sales volumes and margins could be adversely affected.

***Our future results and competitive position are dependent on the successful development of new products and improvement of existing products, which is subject to a number of difficulties and uncertainties.***

Our future results and ability to maintain or improve our competitive position depend on our capacity to anticipate changes in our key markets and to successfully identify, develop, manufacture, market and sell new or improved products in these changing markets. We aim to introduce new products and re-launch and extend existing product lines on a timely basis in order to counteract obsolescence and decreases in sales of existing products as well as to increase overall sales of our products. For example, in 2019 we launched *Green Cuisine* which offers consumers a wide range of meat free solutions and we currently intend to expand the brand to continental Europe. The launch and success of new or modified products are inherently uncertain, especially as to the products' appeal to consumers, and there can be no assurance as to our continuing ability to develop and launch successful new products or variations of existing products. The failure to launch a product successfully can give rise to inventory write-offs and other costs and can affect consumer perception of our other products. Market factors and the need to develop and provide modified or alternative products may also increase costs. In addition, launching new or modified products can result in cannibalization of sales of our existing products if consumers purchase the new product in place of our existing products. If we are unsuccessful in developing new products in response to changing consumer demands or preferences in an efficient and economical manner, or if our competitors respond more effectively than we do, demand for our products may decrease, which could materially and adversely affect our business, financial condition and results of operations.

***The nature of the exit of the UK from the EU could adversely impact our business, results of operations and financial condition.***

On June 23, 2016 the UK electorate voted in favor of leaving the European Union (commonly referred to as "Brexit"), and on March 29, 2017 the UK government formally initiated the withdrawal process. The European Union (Withdrawal Agreement) Bill has now been passed by the UK Parliament and the UK left the European Union on January 31, 2020. Following its departure, the UK has commenced negotiations with the European Union to reach a trade agreement going forward. At present the date for the finalization of such an agreement is December 31, 2020 and until such date a standstill transition period is in place. This lack of clarity continues to create political and economic uncertainty, which has affected, and may continue to affect, market and macro-economic conditions in both the UK and EU economies.

For the year ended December 31, 2019, 95% of our revenue was derived from the EU as a whole and 30% was derived from the UK, which increased from the prior year due to the acquisitions of Goodfella's and Aunt Bessie's. In addition, we have manufacturing facilities and employees in both the UK and other European countries. As a result of Brexit, we may experience adverse impacts on consumer demand and profitability in the UK and other markets. Depending on the terms of Brexit and any subsequent trade agreement, the UK could also lose access to the single EU market, or specific countries in the EU, resulting in a negative impact on the general and economic conditions in the UK and the EU. Changes may occur in regulations that we are required to comply with as well as amendments to treaties governing tax, duties, tariffs, etc. which could adversely impact our operations and require us to modify our financial and supply arrangements. For example, the imposition of any import restrictions and duties levied on our products may make our products more expensive and less competitive from a pricing perspective. To avoid such impacts, we may have to restructure or relocate some or all of our operations which would be costly and negatively impact our profitability and cash flow.

Additionally, political instability in the European Union as a result of Brexit may result in a material negative effect on credit markets, currency exchange rates and foreign direct investments and any subsequent trade agreement in the EU and UK. This deterioration in economic conditions could result in increased unemployment rates, increased short and long term interest rates, adverse movements in exchange rates, consumer and commercial bankruptcy filings, a decline in the strength of national and local economies, and other results that negatively impact household incomes. Further, a number of our employees in the UK are not UK citizens and, depending on the terms negotiated, may no longer have the right to work in the UK following the UK's formal withdrawal from the EU.

Any of these factors could have a material adverse effect on our business, financial condition and results of operations.

***We are exposed to economic and other trends that could adversely impact our operations in our key geographies.***

We conduct operations in our key markets of the UK, Italy, Germany, Sweden, France, and Norway, from which approximately 80% of our revenue was generated during the year ended December 31, 2019. We are particularly influenced by economic developments and changes in consumer habits in those countries.

The geographic markets in which we compete have been affected by negative macroeconomic trends which have affected consumer confidence. For example, Brexit has created political and economic uncertainty both in the UK and the other EU member states. A deterioration in economic conditions could result in increased unemployment rates, increased short and long term interest rates, consumer and commercial bankruptcy filings, a decline in the strength of national and local economies, and other results that negatively impact household incomes. This can result in consumers purchasing cheaper private label products instead of equivalent branded products. Such macroeconomic trends could, among other things, negatively impact global demand for branded and premium food products, which could result in a reduction of sales or pressure on margins of our branded products or cause an increasing transfer to lower priced product categories.

***Our inability to source raw materials or other inputs of an acceptable type or quality, could adversely affect our results of operations.***

We use significant quantities of food ingredients and packaging materials and are therefore vulnerable to fluctuations in the availability and price of food ingredients, packaging materials, other supplies and energy costs. In particular, raw materials such as fish, livestock and crops have historically represented a significant portion of our cost of sales, and accordingly, adverse changes in raw material prices can impact our results of operations.

Specifically, the availability and the price of fish, vegetables and other agricultural commodities, including poultry and meat, can be volatile. We are also affected by the availability of quality raw materials, most notably fish, which can be impacted by the fishing and agricultural policies of the European Union including national or international quotas that can limit volume of raw materials. General economic conditions, unanticipated demand, problems in manufacturing or distribution, natural disasters, weather conditions during the growing and harvesting seasons, plant, fish and livestock diseases and local, the impact of Brexit, national or international quarantines can also adversely affect availability and prices of commodities in the long and short term.

While we attempt to negotiate fixed prices for certain materials with our suppliers for periods ranging from one month to a full year, we cannot guarantee that our strategy will be successful in managing input costs if prices increase for extended periods of time. Additionally, by entering fixed price agreements we may potentially be limiting our ability to benefit from possible price decreases. Moreover, there is no market for hedging against price volatility for certain raw materials and accordingly such materials are bought at the spot rate in the market.

Our ability to avoid the adverse effects of a pronounced, sustained price increase in raw materials is limited. Any increases in prices or scarcity of ingredients or packaging materials required for our products could increase our costs and disrupt our operations. If the availability of any of our inputs is constrained for any reason, we may not be able to obtain sufficient supplies or supplies of a suitable quality on favorable terms or at all. Such shortages could materially adversely affect our market share, business, financial condition and results of operations.

***Our inability to pass on price increases for materials or other inputs to our customers could adversely affect our results of operations.***

Our ability to pass through increases in the prices of raw materials to our customers depends, among others, on prevailing competitive conditions and pricing methods in the markets in which we operate, and we may not be able to pass through such price increases to our customers. Even if we are able to pass through increases in prices, there is typically a time lag between cost increases impacting our business and implementation of product price increases during which time our profit margin may be negatively impacted. Recovery of cost inflation, driven by both commodity cost increases or changes in the foreign exchange rate of the currency the commodity is denominated in, can also lead to disparities in retailers' shelf-prices between different brands which can result in a competitive disadvantage and volume decline. During our negotiations to increase our prices to recover cost increases, customers may take actions which exacerbate the impact of such cost increases, for example by ceasing to offer our products or deferring orders until negotiations have ended. Our inability to pass through price increases in raw materials and preserve our profit margins in the future could materially adversely affect our business, financial condition and results of operations.

***We rely on sales to a limited number of large food retailers and should they perform poorly or give higher priority to private label or other brands or products or if the concentration and buying power of these large retailers increase, our business could be adversely affected.***

Our customers include supermarkets and large chain food retailers in the UK, Germany, France, Italy, Sweden and Norway. Throughout our markets, the food retail segments are highly concentrated. For the year ended December 31, 2019, our top 10 customers account for 36% of sales. In recent years, the major multiple retailers in those countries have increased their share of the grocery market and price competition between retailers has intensified. This price competition has led the major multiple retailers to seek lower prices from their suppliers, including us. The strength of the major multiple retailers' bargaining position gives them significant leverage over their suppliers in negotiating pricing, product specification and the level of supplier participation in promotional campaigns and offers, which can reduce our margins. International alliances among retailers continue to become stronger, and the trend for consolidation in Europe at a local level and across borders is ongoing. Further consolidation among the major multiple retailers or disproportionate growth in relation to their competitors could increase their relative negotiating power and allow them to force a negative shift in our trade terms. Our results of operations could also be adversely affected if these retailers suffer a significant deterioration in sales performance, if we are required to reduce our prices or increase our promotional spending activity as a consequence, if we are unable to collect accounts receivable from our customers, if we lose business from a major customer or if our relationship with a major customer deteriorates.

Our retail customers also offer private label products that compete directly with our products for retail shelf space and consumer purchases. Private label products typically have higher margins for retailers than other branded products. Accordingly, there is a risk that our customers may give higher priority to private label products or the branded products of our competitors, which would adversely affect sales of our products. Our major multiple retail customers are also expanding into non-food product lines in their stores, thereby exerting pressure on available shelf space for other categories such as food products. We may be unable to adequately respond to these trends and, as a result, the volume of our sales may decrease or we may need to lower the prices of our products, either of which could adversely affect our business, financial condition and results of operations.

**Increased distribution costs or disruption of transportation services could adversely affect our business and financial results.**

Distribution costs have historically fluctuated significantly over time, particularly in connection with oil prices, and increases in such costs could result in reduced profits. In addition, certain factors affecting distribution costs are controlled by our third party carriers. To the extent that the market price for fuel or freight or the number or availability of carriers fluctuates, our distribution costs could be affected. Furthermore, temporary or long-term disruption of transportation services due to weather-related problems, strikes or other events could impair our ability to supply products affordably and in a timely manner or at all. Failure to deliver our perishable food products promptly could also result in inventory spoilage. These factors could impact our commercial reputation and result in our customers reducing their orders or ceasing to order our products. Any increases in the cost of transportation, and any disruption in transportation, could have a material adverse effect on our business, financial condition and results of operations. We require the use of refrigerated vehicles to ship our products and such distribution costs represent an important element of our cost structure. We are dependent on third parties for almost all of our transportation requirements. In Italy, our distribution network is shared with Unilever's ice cream business. Our arrangement with Unilever is governed by a distribution agreement which expires in 2022. If we change the transportation services we use, we could face logistical difficulties that could delay deliveries, and we could incur costs and expend resources in connection with such change.

**We may not be able to consummate future acquisitions or successfully integrate acquisitions into our business which could result in unanticipated expenses and losses.**

Our strategy is largely based on our ability to grow through acquisitions of additional businesses to build an integrated group. Consummating acquisitions of businesses, or our failure to integrate such businesses successfully into our existing businesses, could result in unanticipated expenses and losses. Furthermore, we may not be able to realize any of the anticipated benefits from completed acquisitions, including the Goodfella's Pizza and Aunt Bessie's acquisitions.

We anticipate that any future acquisitions we may pursue as part of our business strategy may be partially financed through additional debt or equity. Any future financial market disruptions or tightening of the credit markets may make it more difficult for us to obtain financing for acquisitions or increase the cost of obtaining financing. If new debt is added to current debt levels, or if we incur other liabilities, including contingent liabilities, in connection with an acquisition, the debt or liabilities could impose additional constraints and requirements on our business and operations, which could materially adversely affect our financial condition and results of operation. In addition, to the extent our ordinary shares are used for all or a portion of the consideration to be paid for future acquisitions, dilution may be experienced by existing shareholders.

In connection with our completed and future acquisitions, the process of integrating acquired operations into our existing group operations may result in unforeseen operating difficulties and may require significant financial resources that would otherwise be available for the ongoing development or expansion of existing operations. Some of the risks associated with acquisitions include:

- unexpected losses of key employees or customers of the acquired company;
- conforming the acquired company's standards, processes, procedures and controls with our operations;
- coordinating new product and process development;
- hiring additional management and other critical personnel;
- negotiating with labor unions; and
- increasing the scope, geographic diversity and complexity of our current operations.

We may encounter unforeseen obstacles or costs in the integration of businesses that we may acquire. In addition, general economic and market conditions or other factors outside of our control could make our operating strategies difficult or impossible to implement. Any failure to implement these operational improvements successfully and/or the failure of these operational improvements to deliver the anticipated benefits could have a material adverse effect on our results of operations and financial condition.

***We may be subject to antitrust regulations with respect to future acquisition opportunities.***

Many jurisdictions in which we operate have antitrust regulations which involve governmental filings for certain acquisitions, impose waiting periods and require approvals by government regulators. Governmental authorities may seek to challenge potential acquisitions or impose conditions, terms, obligations or restrictions that may delay completion of the acquisition or materially reduce the anticipated benefits (financial or otherwise). Our inability to consummate potential future acquisitions or to receive the full benefits of such acquisitions because of antitrust regulations could limit our ability to execute on our acquisition strategy which could have a material adverse effect on our financial condition and results of operations.

***We may face significant competition for acquisition opportunities.***

There may be significant competition in some or all of the acquisition opportunities that we may explore. Such competition may for example come from strategic buyers, sovereign wealth funds, special purpose acquisition companies and public and private investment funds, many of which are well established and have extensive experience in identifying and completing acquisitions. A number of these competitors may possess greater technical, financial, human and other resources than us. We cannot assure investors that we will be successful against such competition. Such competition may cause us to be unsuccessful in executing any acquisition or may result in a successful acquisition being made at a significantly higher price than would otherwise have been the case.

***Any due diligence by us in connection with potential future acquisitions may not reveal all relevant considerations or liabilities of the target business, which could have a material adverse effect on our financial condition or results of operations.***

We intend to conduct such due diligence as we deem reasonably practicable and appropriate based on the facts and circumstances applicable to any potential acquisition. The objective of the due diligence process will be to identify material issues which may affect the decision to proceed with any one particular acquisition target or the consideration payable for an acquisition. We also intend to use information revealed during the due diligence process to formulate our business and operational planning for, and our valuation of, any target company or business. While conducting due diligence and assessing a potential acquisition, we may rely on publicly available information, if any, information provided by the relevant target company to the extent such company is willing or able to provide such information and, in some circumstances, third party investigations.

There can be no assurance that the due diligence undertaken with respect to an acquisition will reveal all relevant facts that may be necessary to evaluate such acquisition including the determination of the price we may pay for an acquisition target or to formulate a business strategy. Furthermore, the information provided during due diligence may be incomplete, inadequate or inaccurate. As part of the due diligence process, we will also make subjective judgments regarding the results of operations, financial condition and prospects of a potential target. If the due diligence investigation fails to correctly identify material issues and liabilities that may be present in a target company or business, or if we consider such material risks to be commercially acceptable relative to the opportunity, and we proceed with an acquisition, we may subsequently incur substantial impairment charges or other losses.

In addition, following any acquisition, we may be subject to significant, previously undisclosed liabilities of the acquired business that were not identified during due diligence and which could contribute to poor operational performance, undermine any attempt to restructure the acquired company or business in line with our business plan and have a material adverse effect on our financial condition and results of operations.

***We do not have long-term contractual agreements with our key customers, which exposes us to increased risks with respect to such customers.***

As is typical in the food industry, sales to our key customers in our major markets are made on a daily demand basis. We generally do not have long-term contractual commitments to supply such customers and must renegotiate supply and pricing terms of our products on a regular basis. Customarily, trade terms are renegotiated annually; however, ad-hoc changes are often made on an informal basis, such as by email, to reflect discounts and promotional arrangements. Amounts paid are subject to end of period reconciliations to reflect these informal arrangements. In some cases, our customers seek to claim reimbursement for informal discount arrangements going back multiple periods. In addition, we do not have written contractual arrangements with a number of our other customers. Most of our customer relationships or arrangements could be terminated or renegotiated at any time and, in some cases, without reasonable notice.

***Our customers may not be creditworthy.***

Our business is subject to the risks of nonpayment and nonperformance by our customers. We manage our exposure to credit risk through credit analysis and monitoring procedures, and sometimes use letters of credit, prepayments and guarantees. However, these procedures and policies cannot fully eliminate customer credit risk, and to the extent our policies and procedures prove to be inadequate, it could negatively affect our financial condition and results of operations. In addition, some of our customers may be highly leveraged and subject to their own operating and regulatory risks and, even if our credit review and analysis mechanisms work properly, we may experience financial losses in our dealings with such parties. Any future financial market disruptions or tightening of the credit markets could result in some of our customers experiencing a significant decline in profits and/or reduced liquidity. A significant adverse change in the financial position of a customer could require us to assume greater credit risk relating to that customer and could limit our ability to collect receivables. We do not maintain credit insurance to insure against customer credit risk. If our customers fail to fulfill their contractual obligations, it may have an adverse effect on our business, financial condition and results of operation.

***Failure to protect our brand names and trademarks could materially affect our business.***

Our principal brand names and trademarks (such as *Birds Eye*, *Iglo*, *Findus*, *Aunt Bessie's* and *Goodfella's*) are key assets of our business and our success depends upon our ability to protect our intellectual property rights. We rely upon trademark laws to establish and protect our intellectual property rights, but cannot be certain that the actions we have taken or will take in the future will be adequate to prevent violation of our proprietary rights. Litigation may be necessary to enforce our trademark or proprietary rights or to defend us against claimed infringement of the rights of third parties. In addition, the *Birds Eye* brand, which we use in the UK, is used by other producers in the United States and Australia. Even though the brands have different logos, adverse publicity from such other markets may negatively impact the perception of our brands in our respective markets. Adverse publicity, legal action or other factors could lead to substantial erosion in the value of our brands, which could lead to decreased consumer demand and could have a material adverse effect on our business, financial condition and results of operations.

There is also a risk that other parties may have intellectual property rights covering some of our brands, products or technology. If any third parties bring a claim of intellectual property infringement against us, we may be subject to costly and time-consuming litigation, diverting the attention of management and our employees. If we are unsuccessful in defending against such claims, we may be subject to, among other things, significant damages, injunctions against development and sale of certain products, or we may be required to enter into costly licensing agreements, any of which could have an adverse impact on our business, financial condition, and results of operations.

***We are exposed to risks related to our financial arrangements with respect to receivables factoring.***

We enter into factoring arrangements from time to time with financial institutions to sell certain of our accounts receivables from customers without recourse. If we were to stop entering into these factoring arrangements, our operating results, financial condition and cash flows could be adversely impacted by delays or failures in collecting accounts receivables. However, by entering into these arrangements we are exposed to additional risks. If any of these financial institutions experiences financial difficulties or is otherwise unable to honor the terms of our factoring arrangements, we may experience material financial losses due to the failure of such arrangements which could have an adverse impact upon our operating results, financial condition and cash flows.

***Health concerns or adverse developments with respect to the safety or quality of products of the food industry in general, or our own products specifically, may damage our reputation, increase our costs of operations and decrease demand for our products.***

Food safety and the public's perception that our products are safe and healthy are essential to our image and business. We sell food products for human consumption, which subjects us to safety risks such as product contamination, spoilage, misbranding or product tampering. Product contamination, including the presence of a foreign object, undeclared allergens, substance, chemical or other agent or residue or the introduction of a genetically modified organism, could require product withdrawals or recalls or the destruction of inventory, and could result in negative publicity, temporary plant closures and substantial costs of compliance or remediation. In addition, food producers, including us, have been targeted by extortion attempts that threatened to contaminate products displayed in supermarkets. Such attempts can result in the temporary removal of products from shelf displays as a precautionary measure and result in lost revenue. We may also be impacted by publicity concerning any assertion that our products caused illness or injury. In addition, we could be subject to claims or lawsuits relating to an actual or alleged illness stemming from product contamination or any other incidents that compromise the safety and quality of our products. Any significant lawsuit or widespread product recall or other events leading to the loss of consumer confidence in the safety

and quality of our products could damage our brand, reputation and image and negatively impact our sales, profitability and prospects for growth. We could also be adversely affected if consumers lose confidence in the safety and quality of certain food products or ingredients, or the food safety system generally. If another company recalls or experiences negative publicity related to a product in a category in which we compete, consumers might reduce their overall consumption of products in this category. Adverse publicity about these types of concerns, whether valid or not, may discourage consumers from buying our products or cause production and delivery disruptions. In addition, product recalls are difficult to foresee and prepare for and, in the event we are required to recall one or more of our products, such recall may result in loss of sales due to unavailability of our products and may take up a significant amount of our management's time and attention. We maintain systems designed to monitor food safety risks and require our suppliers to do so as well. However, we cannot guarantee that our efforts will be successful or that such risks will not materialize. In addition, although we attempt, through contractual relationships and regular inspections, to control the risk of contamination caused by third parties in relation to the several manufacturing and distribution processes we outsource, we cannot guarantee that our efforts will be successful or that contamination of our products by third parties will not materialize.

We are also subject to further risks affecting the food industry generally, including risks posed by widespread contamination and evolving nutritional and health-related concerns. Regulatory authorities may limit the supply of certain types of food products in response to public health concerns and consumers may perceive certain products to be unsafe or unhealthy. In addition, governmental regulations may require us to discontinue certain offerings or limit the range of products we offer. We may be unable to find substitutes that are as appealing to our customer base, or such substitutes may not be widely available or may be available only at increased costs. Such substitutions or limitations could also reduce demand for our products.

We could also be subject to claims or lawsuits relating to an actual or alleged illness or injury or death stemming from the consumption of a misbranded, altered, contaminated or spoiled product, which could negatively affect our business. Awards of damages, settlement amounts and fees and expenses resulting from such claims and the public relations implications of any such claims could have an adverse effect on our business. The availability and price of insurance to cover claims for damages are subject to market forces that we do not control, and such insurance may not cover all the costs of such claims and would not cover damage to our reputation. Even if product liability claims against us are not successful or fully pursued, these claims could be costly and time consuming, increase our insurance premiums and divert our management's time and resources towards defending them rather than operating our business. In addition, any adverse publicity concerning such claims, even if unfounded, could cause customers to lose confidence in the safety and quality of our products and damage our reputation and brand image.

***Potential liabilities and costs from litigation could adversely affect our business.***

There is no guarantee that we will be successful in defending ourselves in civil, criminal or regulatory actions, including under general, commercial, employment, environmental, food quality and safety, anti-trust and trade, advertising and claims, and environmental laws and regulations, or in asserting our rights under various laws. For example, our marketing or claims could face allegations of false or deceptive advertising or other criticisms which could end up in litigation and result in potential liabilities or costs. In addition, we could incur substantial costs and fees in defending ourselves or in asserting our rights in these actions or meeting new legal requirements. Even when not merited, the defense of these lawsuits may divert our management's attention, and we may incur significant costs in defending these lawsuits. The costs and other effects of potential and pending litigation and administrative actions against us, and new legal requirements, cannot be determined with certainty and may differ from expectations.

***We are exposed to local business and tax risks in many different countries.***

We operate in various countries in Europe, predominantly in the UK, Germany, France, Italy, Sweden and Norway. As a result, our business is subject to risks resulting from differing legal, political, social and regulatory requirements, economic conditions and unforeseeable developments in these markets, all or any of which could result in disruption of our activities. These risks include, among others, political instability (including the impact of Brexit), differing economic cycles, tariffs, duties and adverse economic conditions, unexpected changes in regulatory environments, currency exchange rate fluctuations, inability to collect payments or seek recourse under or comply with ambiguous or vague commercial or other laws, changes in distribution and supply channels, foreign exchange controls and restrictions on repatriation of funds, and difficulties in attracting and retaining qualified management and employees. Our overall success in the markets in which we operate depends, to a considerable extent, on our ability to effectively manage differing legal, political, social and regulatory requirements, economic conditions and unforeseeable developments. We cannot guarantee that we will succeed in developing and implementing policies and strategies which will be effective in each location where we do business.

We must comply with complex and evolving tax regulations in the various jurisdictions in which we operate, which subjects us to international tax compliance risks. Some tax jurisdictions in which we operate have complex and subjective rules regarding income tax, value-added tax, sales or excise tax, tariffs, duties and transfer tax. From time to time, our foreign subsidiaries are subject to tax audits and may be required to pay additional taxes, interest or penalties should the taxing authority assert different interpretations, or different allocations or valuations of our services which could be material and could reduce our income and cash flow from our international subsidiaries. We currently have several pending tax assessments and audits in various jurisdictions including Germany, France, Sweden and Italy. The agreements by which we acquired certain businesses provide for certain indemnifications of tax liabilities which may arise in certain jurisdictions which we believe are sufficient to address these specific tax matters as far as they relate to those businesses. We have also established, where appropriate, reserves and provisions for tax assessments which we believe to be adequate to address potential tax liabilities. However, it is possible that the tax audits referred to above could result in the volatility of timings of cash tax payment and recoveries.

***Our business is dependent on third-party suppliers and changes or difficulties in our relationships with our suppliers may harm our business and financial results.***

We outsource some of our business functions to third-party suppliers, such as the processing of certain vegetables and other products, the manufacturing of packaging materials and distribution of our products. Our suppliers are subject to their own unique operational and financial risks, which are out of our control. Our suppliers may fail to meet timelines or contractual obligations or fail to provide us with sufficient products, which may adversely affect our business. Certain of our contracts with key suppliers, such as for the raw materials we use in our products, are short term, can be terminated by the supplier upon giving notice within a certain period and restrict us from using other suppliers. Also, a number of our supply contracts, including for fish and vegetables, may be terminated by the supplier upon a change in our ownership. Failure to appropriately structure or adequately manage our agreements with third parties may adversely affect our supply of products. We are also subject to credit risk with respect to our third-party suppliers. If any such suppliers become insolvent, an appointed trustee could potentially ignore the service contracts we have in place with such party, resulting in increased charges or the termination of the service contracts. We may not be able to replace a service provider within a reasonable period of time, on as favorable terms or without disruption to our operations. Any adverse changes to our relationships with third-party suppliers could have a material adverse effect on our image, brand and reputation, as well as on our business, financial condition and results of operations.

In addition, to the extent that our creditworthiness is impaired, or general economic conditions decline, certain of our key suppliers may demand onerous payment terms that could materially adversely affect our working capital position, or such suppliers may refuse to continue to supply to us. A number of our key suppliers have taken out trade credit insurance on our ability to pay them. To the extent that such trade credit insurance becomes unobtainable or more expensive due to market conditions, we may face adverse changes to payment terms by our key suppliers or they may refuse to continue to supply us.

***The price of energy we consume in the manufacture, storage and distribution of our products is subject to volatile market conditions.***

The price of electricity and other energy resources required in the manufacture, storage and distribution of our products is subject to volatile market conditions. These market conditions are often affected by political and economic factors beyond our control, including, for instance, the energy policies of the countries in which we operate. For example, the German government's decision to phase out nuclear power generation by 2022 could cause electricity prices and price volatility in Germany to increase. Any sustained increases in energy costs could have an adverse effect on the attractiveness of frozen food products for our customers and consumers and could affect our competitive position if our competitors' energy costs do not increase at the same rate as ours. In addition, disruptions in the supply of energy resources could temporarily impair our ability to manufacture products for our customers. Such disruptions may also occur as a result of the loss of energy supply contracts or the inability to enter into new energy supply contracts on commercially attractive terms. Furthermore, natural catastrophes or similar events could affect the electricity grid. Any such disruptions, or increases in energy costs as a result of the aforementioned factors or otherwise, could have a material adverse effect on our business, financial condition and results of operations.

***Any disruptions, failures or security breaches of our information technology systems could harm our business and reduce our profitability.***

We are increasingly dependent upon on our information technology systems for communication among our suppliers, manufacturing plants, distribution functions, headquarters and customers. Our performance depends on the availability of accurate and timely data and other information from key software applications to aid day-to-day business and decision-making processes. We may be adversely affected if our controls designed to manage information technology operational risks fail to contain such risks. If we do not allocate and effectively manage the resources necessary to build and sustain the proper technology infrastructure and to maintain the related automated and manual control processes, we could be subject to adverse effects including billing and collection errors, business disruptions, in particular concerning our manufacturing and logistics functions, issues with or errors in system's maintenance and security and migration of applications to the cloud and security breaches. Any disruption caused by failings in our information technology infrastructure equipment or of communication networks, could delay or otherwise impact our day-to-day business and decision-making processes and negatively impact our performance. In addition, we are reliant on third parties to service parts of our IT infrastructure. Failure on their part to provide good and timely service may have an adverse impact on our information technology network. Furthermore, we do not control the facilities or operations of our suppliers. An interruption of operations at any of their or our facilities or any failure by them to deliver on their contractual commitments may have an adverse effect on our business, financial condition and results of operations.

Although our information technology systems are protected through physical and software safeguards, it is difficult to protect against the possibility of damage or breach created by cyber-attacks or other security attacks in every potential circumstance that may arise. As cyber-attacks are increasing in frequency and sophistication it becomes even more difficult to protect against a breach of our information technology systems. Cybersecurity incidents that impact the availability, reliability, speed, accuracy, or other proper functioning of these information technology systems could have a significant impact on our operations. If we are unable to prevent physical and electronic break-ins, cyber-attacks and other information security breaches, we may suffer financial and reputational damage, be subject to litigation or incur remediation costs or penalties because of the unauthorized disclosure of confidential information belonging to us or to our customers, suppliers or employees. The mishandling or inappropriate disclosure of non-public sensitive or protected information could lead to the loss of intellectual property, negatively impact planned corporate transactions or damage our reputation and brand image. Misuse, leakage or falsification of legally protected information could also result in a violation of data privacy laws and regulations and have a negative impact on our reputation, business, financial condition and results of operations.

***Changes in the European regulatory environment regarding privacy and data protection regulations, such as the European Union's General Data Protection Regulation ("GDPR"), could expose us to risks of noncompliance and costs associated with compliance.***

On May 25, 2018, the EU's GDPR became enforceable. The GDPR relates to the collection, use, retention, security, processing and transfer of personally identifiable information of residents of EU countries, and because of our operations in the EU, including in the UK, we are subject to these heightened standards. The GDPR created a range of new compliance obligations, and imposes significant fines and sanctions for violations. Among other things, the GDPR requires companies to meet stringent requirements regarding the handling of personal data of individuals located in the European Economic Area, or EEA. These more stringent requirements include expanded disclosures to inform customers about how we may use their personal data through external privacy notices, increased controls on profiling customers and increased rights for data subjects (including customers and employees) to access, control and delete their personal data. In addition, there are mandatory data breach notification requirements. The GDPR imposes substantial fines for breaches and violations (up to the greater of €20 million or 4% of our annual global revenue). The GDPR also confers a private right of action on data subjects and consumer associations to lodge complaints with supervisory authorities, seek judicial remedies and obtain compensation for damages resulting from violations of the GDPR. Furthermore, there is significant uncertainty with respect to compliance with privacy and data protection laws and regulations, including the GDPR, because they are continuously evolving and developing and may be interpreted and applied differently from country to country and may create inconsistent or conflicting requirements. Our efforts to comply with privacy and data protection laws, including the GDPR, may impose significant costs and challenges that are likely to increase over time.

***Our supply network and manufacturing and distribution facilities could be disrupted by factors beyond our control such as extreme weather, fire, terrorist activity, health epidemics and other outbreaks and natural disasters.***

Severe weather conditions and natural disasters, such as storms, floods, droughts, frosts, earthquakes or pestilence, may affect the supply of the raw materials that we use for the manufacturing of our products. For example, changing climate may cause flooding and drought in crop growing areas or changes in sea temperatures may affect marine biomass, fishing catch rates and overall fishing conditions. In addition, drought or floods may affect the feed supply for red meat and poultry, which in turn may affect the quality and availability of protein sources for our products. Adverse weather conditions and natural disasters can reduce crop size and crop quality, which in turn can reduce our supplies of raw materials, lower recoveries of usable raw materials, increase the prices of our raw materials, increase our cost of transporting and storing raw materials, or disrupt our production schedules. Competing food producers can be affected differently by weather conditions and natural disasters depending on the location of their supply sources. If our supplies of raw materials are reduced, we may not be able to find adequate supplemental supply sources, if at all, on favorable terms, which could have a material adverse effect on our business, financial condition and results of operation.

Our supply network could also be adversely affected by the outbreak of various diseases, such as the recent Covid-19, or coronavirus epidemic in China. We currently source some of our fish supply and certain spices from China. Although we are currently seeking alternative sources of fish supply, there may be delays in procurement or we may be unable to access such alternative supply on commercially reasonable terms, which may have an adverse impact on our operating results. In addition, a significant outbreak of a contagious disease in the human population could result in a widespread health crisis that could adversely affect the economies and financial markets of many countries, resulting in an economic downturn that could affect demand for our products and have a material adverse effect on our results of operations.

In addition, our manufacturing and distribution facilities may be subject to damage or disruption resulting from fire terrorist activity, natural disasters or other causes. For example, our Lowestoft and Bremerhaven manufacturing facilities are situated in regions which have historically been prone to flooding. Extensive damage to any of our thirteen major manufacturing facilities as a result of any of the foregoing reasons, could, to the extent that lost production could not be compensated for by unaffected facilities, severely affect our ability to conduct our business operations and, as a result, adversely affect our business, financial condition and results of operations.

Furthermore, as we lease parts of our Boulogne, Bremerhaven, Lowestoft, and Tonsberg manufacturing sites, the use of these properties is subject to certain terms and conditions, the breach of which could affect our ability to continue use of these properties which in turn may disrupt our operations and may materially adversely affect our results of operations.

***We may be unable to realize the expected benefits of actions taken to align our resources, operate more efficiently and control costs.***

When required we take actions, such as workforce reductions, plant closures and consolidations, and other cost reduction initiatives, such as our factory optimization program, to align our resources with our growth strategies, operate more efficiently and control costs. As these plans and actions are complex, unforeseen factors could result in expected savings and benefits to be delayed or not realized to the full extent planned, could negatively impact labor relations, including causing work stoppages, and could lead to disruptions in our business and operations and higher short-term costs related to severance and related capital expenditures. In 2016, we announced the closure of our factory and pea processing operations in Bjuv, Sweden, and operations ceased in the first half of 2017 with production transferred to other factories in the Group's network. In March 2018, we sold the factory building and parts of the premises. We may be unable to realize the expected benefits of these actions which could potentially adversely affect our profitability and operations.

***Significant disruption in our workforce or the workforce of our suppliers could adversely affect our business, financial condition and results of operations.***

As of December 31, 2019, we employed approximately 4,775 employees, of which approximately 1,412 were located in Germany, 1,222 were located in the UK, 345 were located in France, 478 were located in Italy, 421 were located in Sweden/Norway and 897 employees in other locations. As of December 31, 2019, approximately 70% of our employees worked in our manufacturing operations. We have in the past, and may in the future, experience labor disputes and work stoppages at one or more of our manufacturing sites due to localized strikes or strikes in the larger retail food industry sector. We have also been involved in negotiations on collective bargaining agreements. A labor stoppage or other interruption at one of our thirteen manufacturing sites would impact our ability to supply our customers and could have a pronounced effect on our operations. Further, a number of our employees in the UK are not UK citizens and, subject to recent policy decisions, will need to apply for settled status to retain the right to work in the UK following the formal withdrawal from the EU. Future labor disturbance or work stoppage at any of our or our suppliers' facilities in Germany, the UK, Italy or elsewhere may have an adverse effect on such facility's operations and, potentially, on our business, financial condition and results of operations.

***Higher labor costs could adversely affect our business and financial results.***

We compete with other producers for good and dependable employees. The supply of such employees is limited and competition to hire and retain them may result in higher labor costs. Furthermore, a number of our employees are subject to national minimum wage requirements. If legislation is enacted in these countries that has the effect of raising the national minimum wage requirements, requires additional mandatory employee benefits or affects our ability to hire or dismiss employees, we could face substantially higher labor costs. In the UK, the National Minimum Wage and National Living Wage increased in April 2019. High labor costs could adversely affect our profitability if we are not able to pass them on to our customers.

***We are dependent upon key executives and highly qualified managers and we cannot assure their retention.***

Our success depends, in part, upon the continued services of key members of our management. Our executives' and managers' knowledge of the market, our business and our company represents a key strength of our business, which cannot be easily replicated. The success of our business strategy and our future growth also depend on our ability to attract, train, retain and motivate skilled managerial, sales, administration, development and operating personnel.

There can be no assurance that our existing personnel will be adequate or qualified to carry out our strategy, or that we will be able to hire or retain experienced, qualified employees to carry out our strategy. The loss of one or more of our key management or operating personnel, or the failure to attract and retain additional key personnel, could have a material adverse effect on our business, financial condition and results of operations.

***Costs or liabilities relating to compliance with applicable directives, regulations and laws could have a material adverse effect on our business, financial condition and results of operations.***

As a producer of food products for human consumption, we are subject to extensive regulation in the UK, Germany, France, Italy, Sweden, Norway and other countries in which we operate, as well as the European Union, that governs production, composition, manufacturing, storage, transport, advertising, packaging, health, quality, labeling, safety and distribution standards. In addition, national regulations that have implemented European directives applicable to frozen products establish highly technical requirements regarding labeling, manufacturing, transportation and storage of frozen food products. For example, new regulations of the European Parliament and Council which took effect in December 2014 changed rules relating to the presentation of nutritional information on packaging and other rules on labeling. It is unclear how this will be impacted under Brexit but there may be changes and further regulations that the company has to adhere to. Local governmental authorities also set out health and safety related conditions and restrictions. Any failure to comply with applicable laws and regulations could subject us to civil remedies, including fines, injunctions, product recalls or asset seizures, as well as potential criminal sanctions, any of which could have a material adverse effect on our business, financial condition and results of operations.

In addition, our facilities and our suppliers' facilities are subject to licensing, reporting requirements and official quality controls by numerous governmental authorities. These governmental authorities include European, national and local health, environmental, labor relations, sanitation, building, zoning, and fire and safety departments. Difficulties in obtaining or failure to obtain the necessary licenses or approval could delay or prevent the development, expansion or operation of a given production or warehouse facility. Any changes in those regulations may require us to implement new quality controls and possibly invest in new equipment, which could delay the development of new products and increase our operating costs.

All of our products must comply with strict national and international hygiene regulations. Our facilities and our suppliers' facilities are subject to regular inspection by authorities for compliance with hygiene regulations applicable to the sale, storage and manufacturing of foodstuffs and the traceability of genetically modified organisms, meats and other raw materials. Additionally, in certain jurisdictions, food business operators, including those in the food storage, processing and distribution sectors, are required to trace all food, animal feed, and food-producing animals under their control using registration systems that track the source of the products through the supply chain. Despite the precautions we undertake, should any non-compliance with such regulations be discovered during an inspection or otherwise, authorities may temporarily shut down any of our facilities, demand a product recall and/or levy a fine for such non-compliance, which could have a material adverse effect on our business, financial condition and results of operations.

***We could incur material costs to address violations of, or liabilities under, health, safety and environmental regulations.***

Our facilities and operations are subject to numerous health, safety and environmental regulations, including local and national laws, and European directives and regulations governing, among other things, water supply and use, water discharges, air emissions, chemical safety, solid and hazardous waste management and disposal, clean-up of contamination, energy use, noise pollution, and workplace health and safety. Health, safety and environmental legislation in Europe and elsewhere have generally become more comprehensive and restrictive and more rigid over time and enforcement has become more stringent. Failure to comply with applicable requirements, or the terms of required permits, can result in penalties or fines, clean-up costs, third party property damage and personal injury claims, which could have a material adverse effect on our brand, business, financial condition and results of operations. In addition, if health, safety and environmental laws and regulations in the UK, Germany, France, Italy, Sweden, Norway and the other countries in which we operate or from which we source raw materials and ingredients become more stringent in the future, the extent and timing of investments required to maintain compliance may exceed our budgets or estimates and may limit the availability of funding for other investments.

Furthermore, under some environmental laws, we could be liable for costs incurred in investigating or remediating contamination at properties we own or occupy, even if the contamination was caused by a party unrelated to us or was not caused by us, and even if the activity which caused the contamination was legal at the time it occurred. The discovery of previously unknown contamination, or the imposition of new or more burdensome obligations to investigate or remediate contamination at our properties or at third-party sites, could result in substantial unanticipated costs which could have a material adverse effect on our business, financial condition and results of operations.

In certain jurisdictions, we are also subject to legislation designed to significantly reduce industrial energy use, carbon dioxide emissions and the emission of ozone depleting compounds more generally. If we fail to meet applicable standards for energy use reduction or are unable to decrease, and in some cases eliminate, certain emissions within the applicable period required by relevant laws and regulations, we could be subject to significant penalties or fines and temporary or long-term disruptions to production at our facilities, all of which could have a material adverse effect on our business, financial condition and results of operations.

***We are subject to a variety of regulatory schemes; failure to comply with applicable rules and regulations could adversely affect our business, results of operations and reputation.***

Our operations are subject to a variety of regulatory schemes which require us to implement processes, procedures and controls to provide reasonable assurance that we are operating in compliance with applicable regulations, including the UK Bribery Act, the Modern Slavery Act 2015, the Foreign Corrupt Practices Act of 1977, the Trade Sanctions and Export Controls and the EU General Data Protection Regulation. Failure to comply (or any alleged failure to comply) with the regulations referenced above or any other regulations could result in civil and criminal, monetary and non-monetary penalties, and any such failure or alleged failure (or becoming subject to a regulatory enforcement investigation) could also damage our reputation, disrupt our business, result in loss of customers and cause us to incur significant legal and investigatory fees. In addition, our business, including our ability to operate and continue to expand internationally, could be adversely affected if local and foreign laws or regulations are adopted, interpreted, or implemented in a manner that is inconsistent with our current business practices and that require rapid changes to these practices or our products, services, policies and procedures. If we are not able to adapt our business practices or strategies to changes in laws or regulations, it could subject us to liability, increased costs and reduced product demand. Additionally, the costs of compliance with laws and regulations may increase in the future as a result of changes in interpretation. Any failure by us to comply with applicable laws and regulations may subject us to significant liabilities and could adversely affect our business, results of operations and reputation.

***A failure in our cold chain could lead to unsafe food conditions and increased costs.***

“Cold chain” requirements setting out the temperatures at which our ingredients and products are stored are established both by statute and by us to help guarantee the safety of our food products. Our cold chain is maintained from the moment the ingredients arrive at, or are frozen by, our suppliers, through our manufacturing and transportation of products and ultimately to the time of sale in retail stores. These standards ensure the quality, freshness and safety of our products. A failure in the cold chain could lead to wastage, increased costs, food contamination, risks to the health of consumers, fines and damage to our brands and reputation, each of which could have an adverse effect on our business, financial condition and results of operations.

***Seasonality impacts our business, and our revenue and working capital levels may vary quarter to quarter.***

Our sales and working capital levels have historically been affected to a limited extent by seasonality. In general, sales volumes for frozen food are slightly higher in cold or winter months, partly because there are fewer fresh alternatives available for vegetables and because our customers typically allocate more freezer space to the ice cream segment in summer or hotter months. In addition, variable production costs, including costs for seasonal staff, and working capital requirements associated with the keeping of inventories, vary depending on the harvesting and buying periods of seasonal raw materials, in particular vegetable crops. For example, stock (and therefore net working capital) levels typically peak in August to September just after the pea harvest. If seasonal fluctuations are greater than anticipated, our business, financial condition and results of operations could be adversely affected.

***We have risks related to our indebtedness, including our ability to withstand adverse business conditions and to meet our debt service obligations.***

Our ability to make payments on and to refinance our indebtedness, and to fund our operations, working capital and capital expenditures, depends on our ability to generate cash. To a certain extent, our cash flow is subject to general economic, industry, financial, competitive, operating, legislative, regulatory and other factors, many of which are beyond our control.

We cannot assure you that our business will generate sufficient cash flow from operations or that future sources of cash will be available to us in an amount sufficient to enable us to pay amounts due on our indebtedness or to fund our other liquidity needs.

Additionally, if we incur additional indebtedness in connection with any future acquisitions or development projects or for any other purpose, our debt service obligations could increase. We may need to refinance all or a portion of our indebtedness before maturity. Our ability to refinance our indebtedness or obtain additional financing will depend on, among other things:

- our financial condition and market conditions at the time;
- restrictions in the agreements governing our indebtedness;
- general economic and capital market conditions;
- the availability of credit from banks or other lenders;
- investor confidence in us; and
- our results of operations.

In addition, a significant part of our indebtedness includes provisions with respect to maintaining and complying with certain financial and operational covenants. Our ability to comply with these covenants may be affected by events beyond our control. A breach of one or more of these covenants could result in an event of default and may give rise to an acceleration of the debt. In the longer term, such breach of covenants could have a material adverse effect on our operations and cash flows.

***Our variable rate indebtedness subjects us to interest rate risk, which could cause our debt service obligations to increase significantly.***

An increase in market interest rates may increase our interest expense arising on our existing and future floating rate indebtedness. Pursuant to the terms of our Senior Facilities Agreement, the interest rate that we pay on indebtedness incurred under our term loan facilities or revolving credit facility varies based on a fixed margin over a base reference rate of LIBOR or EURIBOR. As a result, we are exposed to interest rate risk. If interest rates increase, our debt service obligations on the variable rate indebtedness will increase even though the amount borrowed remained the same, and our net income and cash flows, including cash available for servicing our indebtedness, will correspondingly decrease. Pursuant to the Company interest rate hedging policy, we may enter into interest rate derivatives that may involve the exchange of floating for fixed rate interest payments in order to reduce interest rate volatility. However, we may not maintain interest rate swaps with respect to all of our variable rate indebtedness, and any swaps we enter into may not fully mitigate our interest rate risk.

***Our indebtedness is subject to changes in interest reference rates***

Pursuant to the terms of the current Senior Facilities Agreement, the interest rate paid on indebtedness incurred under our term loan facilities or revolving credit facility varies based on a fixed margin over a base reference rate of LIBOR or EURIBOR. As a result of decisions taken by national regulators, LIBOR and EURIBOR may become phased out and replaced by a replacement reference index. If LIBOR or EURIBOR ceases to exist, we may need to renegotiate our Senior Facilities Agreement with our lenders. As a result of changes to underlying interest reference rates, the Company may be exposed to volatility with regard to interest costs on indebtedness or linked interest rate hedging arrangements.

***We are exposed to exchange rate risks and such rates may adversely affect our results of operations.***

We are exposed to exchange rate risk. Our reporting currency is the Euro and a significant proportion of our sales and EBITDA are in Pound Sterling through our UK based business, and Norwegian Krone and Swedish Krona through our Norwegian and Swedish based businesses. We are exposed to foreign exchange translation risk as we convert the Pound Sterling results of our UK business and the Norwegian Krone and Swedish Krona results of our Norwegian and Swedish business into our reporting currency of Euro. Pursuant to Company foreign exchange hedging policy, we have converted a portion of our USD term loan to EUR and from EUR to GBP using cross currency interest rate swaps that act as a Net Investment hedge for our UK business. We are exposed to transactional exchange rate risk as many of our raw material purchases may be denominated in non-functional currencies of the purchasing entity, predominantly U.S. Dollars and Euro. Company policy is to reduce this risk by using foreign exchange forward contracts that are designated as cash flow hedges. Hedging arrangements may not fully protect us against currency fluctuations and may or not achieve hedge effectiveness. Fluctuations and sustained strengthening of non-functional currencies against the functional currency of the operating entities may materially adversely affect our business, financial condition and results of operations.

***Changes to our payment terms with both customers and suppliers may materially adversely affect our operating cash flows.***

We may experience significant pressure from our key suppliers to reduce trade payable terms. At the same time, we may experience pressure from our customers to extend trade receivable terms. Any such changes in commercial arrangements regarding trade payable and trade receivable payment terms, may have a material adverse effect on our business, financial condition and results of operations.

***Changes in accounting standards and subjective assumptions, estimates and judgments by management related to complex accounting matters could significantly affect our financial results.***

Generally accepted accounting principles and related accounting pronouncements, implementation guidelines and interpretations with regard to a wide range of matters that are relevant to our business, including but not limited to revenue recognition, leases, estimating valuation allowances and accrued liabilities (including allowances for returns, doubtful accounts and obsolete and damaged inventory), accounting for income taxes, valuation of long-lived and intangible assets and goodwill, stock-based compensation and loss contingencies, are highly complex and involve many subjective assumptions, estimates and judgments by our management. Changes in these rules or their interpretation or changes in underlying assumptions, estimates or judgments by our management could significantly change our reported or expected financial performance, and could have a material adverse effect on our business.

Management continues to assess new accounting pronouncements and their impact on the Company prior to their adoption dates.

***We may incur liabilities that are not covered by insurance.***

While we seek to maintain appropriate levels of insurance, not all claims are insurable and we may experience major incidents of a nature that are not covered by insurance. Our insurance policies cover, among other things, employee-related accidents and injuries, property damage and liability deriving from our activities. In particular, our Lowestoft and Bremerhaven manufacturing facilities are situated in regions that have historically been affected by flooding. We may not be able to obtain flood insurance on reasonable terms or at all with respect to those facilities. We maintain an amount of insurance protection that we believe is adequate, but there can be no assurance that such insurance will continue to be available on acceptable terms or that our insurance coverage will be sufficient or effective under all circumstances and against all liabilities to which we may be subject. We could, for example, be subject to substantial claims for damages upon the occurrence of several events within one calendar year. In addition, our insurance costs may increase over time in response to any negative development in our claims history or due to material price increases in the insurance market in general.

***An impairment of the carrying value of goodwill or other intangible assets could negatively affect our consolidated operating results and net worth.***

Goodwill represents amounts arising from acquisitions and is the difference between the cost of the acquisition and the fair value of the net identifiable assets acquired. Intangible assets can include computer software, brands, customer relationships and other acquired intangibles as of the acquisition date. Goodwill and other intangibles expected to contribute indefinitely to our cash flows are not amortized, but must be evaluated by management at least annually for impairment. If carrying value exceeds its recoverable amount, the intangible is considered impaired and is reduced to fair value via a charge to earnings. Factors outside of our control which could result in an impairment include, but are not limited to: (i) reduced demand for our products; (ii) higher commodity prices; (iii) lower prices for our products or increased marketing as a result of increased competition; and (iv) significant disruptions to our operations as a result of both internal and external events. Should the value of one or more of the acquired intangibles become impaired, our consolidated profit or loss and net assets may be materially adversely affected. As of December 31, 2019, the carrying value of intangible assets totaled €3,946.0 million, of which €1,862.9 million was goodwill and €2,083.1 million represented brands, computer software, customer relationships and other acquired intangibles compared to total assets of €5,904.5 million.

***We face risks associated with certain pension obligations.***

The Company has a mixture of partially funded and unfunded post-employment defined benefit plans in Germany, Sweden and Austria as well as defined benefit indemnity arrangements in Italy and France. Deterioration in the value or lower than expected returns on investments may lead to an increase in our obligation to make contributions to these plans.

The obligations that arise from these plans are calculated using actuarial valuations which are based on assumptions linked to the performance of financial markets, interest rates and legislation which changes over time. Adverse changes to these assumptions will impact the obligations recognized and would lead to higher cash payments in the long term.

Our obligation to make contributions to the pension plans could reduce the cash available for operational and other corporate uses and may have a materially adverse impact on our operations, financial condition and liquidity.

***If we fail to or are unable to implement and maintain effective internal controls over financial reporting, the accuracy and timeliness of our financial reporting may be adversely affected.***

We are subject to reporting obligations under U.S. securities laws. The SEC, as required under Section 404 of the Sarbanes-Oxley Act of 2002, has adopted rules requiring every public company to include a report of management on the effectiveness of such company's internal control over financial reporting in its annual report. In addition, an independent registered public accounting firm must issue an attestation report on the effectiveness of the company's internal control over financial reporting.

We recognize that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives, and our management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. If we fail to maintain effective internal control over financial reporting in the future, we and our independent registered public accounting firm may not be able to conclude that we have effective internal control over financial reporting at a reasonable assurance level. This could in turn result in the loss of investor confidence in the reliability of our financial statements. Furthermore, we have incurred and anticipate that we will continue to incur considerable costs and use significant management time and other resources in an effort to comply with Section 404 and other requirements of the Sarbanes-Oxley Act. If we are not able to continue to meet the requirements of Section 404 in a timely manner or with adequate compliance, we might be subject to sanctions or investigation by the SEC, the NYSE or other regulatory authorities. Any such action could adversely affect the accuracy and timeliness of our financial reporting.

***We are a holding company whose principal source of operating cash is the income received from our subsidiaries.***

We are a holding company and rely on the earnings and cash flows of our subsidiaries, which are paid to us by our subsidiaries in the form of dividends and other payments or distributions, to meet our debt service and other obligations, and to pay dividends on our ordinary shares (which we do not intend to do in any case in the foreseeable future, as addressed elsewhere in these risk factors). The ability of our subsidiaries to pay dividends or make other payments or distributions to us will depend on their respective operating results and may be restricted by, among other things, the laws of their jurisdiction of organization (which may limit the amount of funds available for the payment of dividends and other distributions to us), their constitutional documents, documents governing any existing indebtedness and the covenants of any future outstanding indebtedness that our subsidiaries incur, and other factors which may be outside our control.

***The Founders and/or the Founder Entities may in the future enter into related party transactions with us, which may give rise to conflicts of interest between us and some or all of the Founders and/or the Directors.***

Our founders, Martin Franklin and Noam Gottesman (the "Founders") and/or one or more of their affiliates, including Mariposa Acquisition II, LLC and TOMS Acquisition I LLC (the "Founder Entities") may in the future enter into agreements with us that are not currently under contemplation. While we have implemented procedures to ensure we will not enter into any related party transaction without the approval of our Audit Committee, it is possible that the entering into of such an agreement might raise conflicts of interest between us and some or all of the Founders and/or the directors.

#### **Risks Related to our Ordinary Shares**

***We have various equity instruments outstanding that would require us to issue additional ordinary shares. Therefore, you may experience significant dilution of your ownership interests and the future issuance of additional ordinary shares, or the anticipation of such issuances, could have an adverse effect on our share price.***

We currently have various equity instruments outstanding that would require us to issue additional ordinary shares for no or a fixed amount of additional consideration. Specifically, as of February 21, 2020, we had outstanding the following:

- 1,500,000 Founder Preferred Shares held by the Founder Entities, which are controlled by the Founders. The preferred shares held by the Founder Entities (the "Founder Preferred Shares") will automatically convert into ordinary shares on a one for one basis (subject to adjustment in accordance with our Memorandum and Articles of Association) on the last day of the seventh full financial year following completion of the Iglo Acquisition and some or all of them may be converted following written request from the holder;
- 59,375 options held by certain current and former of our Directors which are exercisable to purchase ordinary shares, on a one-for-one basis, at any time at the option of the holder; and
- 4,989,522 equity awards issued under the LTIP, which may be converted into ordinary shares subject, in most cases, to meeting certain performance conditions.

We currently have 13,563,888 ordinary shares currently available for issuance under our LTIP.

Holders of the Founder Preferred Shares are entitled to receive annual dividend amounts subject to certain performance conditions (the "Founder Preferred Shares Annual Dividend Amount"). The payment of the Founder Preferred Shares Annual Dividend Amount became mandatory after January 1, 2015 if certain share price performance conditions are met for any given year. At our discretion, we may settle the Founder Preferred Shares Annual Dividend Amount by issuing shares or by cash payment, but we intend to equity settle. On December 31, 2019, we approved a 2019 Founder Preferred Share Dividend in an aggregate of 6,421,074 ordinary shares. The dividend price used to calculate the 2019 Founder Preferred Shares Annual Dividend Amount was \$21.7289 (calculated based upon the volume weighted average price for the last ten trading days of 2019) and the Ordinary Shares were issued on January 2, 2020. In subsequent years, the Annual Dividend Amount will be calculated based upon the volume weighted average share price for the last ten trading days of the financial year and the resulting appreciated average share price compared to the highest price previously used in calculating the Annual Dividend Amount. The issuance of ordinary shares pursuant to the terms of the Founder Preferred Shares will reduce (by the applicable proportion) the percentage shareholdings of those shareholders holding ordinary shares prior to such issuance which may reduce your net return on your investment in our ordinary shares.

***Our ordinary share price may be volatile, and as a result, you could lose a significant portion or all of your investment.***

The market price of the ordinary shares on the NYSE may fluctuate as a result of several factors, including the following:

- variations in our quarterly operating results;
- volatility in our industry, the industries of our customers and suppliers and the global securities markets;
- risks relating to our business and industry, including those discussed above;
- strategic actions by us or our competitors;
- reputational damage from unsafe or poor quality food products;
- actual or expected changes in our growth rates or our competitors' growth rates;
- investor perception of us, the industry in which we operate, the investment opportunity associated with the ordinary shares and our future performance;
- addition or departure of our executive officers;
- changes in financial estimates or publication of research reports by analysts regarding our ordinary shares, other comparable companies or our industry generally;
- trading volume of our ordinary shares;
- future sales of our ordinary shares by us or our shareholders;
- domestic and international economic, legal and regulatory factors unrelated to our performance; or
- the release or expiration of lock-up or other transfer restrictions on our outstanding ordinary shares.

Furthermore, the stock markets often experience significant price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations, as well as general economic, political and market conditions such as recessions or interest rate changes may cause the market price of ordinary shares to decline.

***If securities or industry analysts do not publish or cease publishing research reports about us, if they adversely change their recommendations regarding our ordinary shares or if our operating results do not meet their expectations, the price of our ordinary shares could decline.***

The trading market for our ordinary shares will be influenced by the research and reports that industry or securities analysts may publish about us, our business, our market or our competitors. Securities and industry analysts currently publish limited research on us. If there is limited or no securities or industry analyst coverage of our company, the market price and trading volume of our ordinary shares would likely be negatively impacted. Moreover, if any of the analysts who may cover us downgrade our ordinary shares, provide more favorable relative recommendations about our competitors or if our operating results or prospects do not meet their expectations, the market price of our ordinary shares could decline. If any of the analysts who may cover us were to cease coverage or fail to regularly publish reports on us, we could lose visibility in the financial markets, which in turn could cause our share price or trading volume to decline.

***As a foreign private issuer, we are subject to different U.S. securities laws and NYSE governance standards than domestic U.S. issuers. This may afford less protection to holders of our ordinary shares, and you may not receive corporate and company information and disclosure that you are accustomed to receiving or in a manner in which you are accustomed to receiving it.***

As a foreign private issuer, the rules governing the information that we disclose differ from those governing U.S. corporations pursuant to the Exchange Act. Although we report quarterly financial results and certain material events, we are not required to file quarterly reports on Form 10-Q or provide current reports on Form 8-K disclosing significant events within four days of their occurrence and our quarterly or current reports may contain less information than required for domestic issuers. In addition, we are exempt from the SEC's proxy rules, and proxy statements that we distribute will not be subject to review by the SEC. Our exemption from Section 16 rules regarding sales of ordinary shares by insiders means that you will have less data in this regard than shareholders of U.S. companies that are subject to the Exchange Act. As a result, you may not have all the data that you are accustomed to having when making investment decisions with respect to U.S. public companies.

As a foreign private issuer, we are exempt from complying with certain corporate governance requirements of the NYSE applicable to a U.S. issuer, including the requirement that a majority of our board of directors consist of independent directors. As the corporate governance standards applicable to us are different than those applicable to domestic U.S. issuers, you may not have the same protections afforded under U.S. law and the NYSE rules as shareholders of companies that do not have such exemptions. See *Item 16G: Corporate Governance*.

***We may lose our foreign private issuer status in the future, which could result in significant additional costs and expenses.***

We could cease to be a foreign private issuer if a majority of our outstanding voting securities are directly or indirectly held of record by U.S. residents and we fail to meet additional requirements necessary to avoid loss of foreign private issuer status. The regulatory and compliance costs to us under U.S. securities laws as a U.S. domestic issuer may be significantly higher than costs we incur as a foreign private issuer, which could have a material adverse effect on our business and financial results.

**As the rights of shareholders under British Virgin Islands law differ from those under United States law, you may have fewer protections as a shareholder.**

Our corporate affairs are governed by our Memorandum and Articles of Association, the BVI Business Companies Act, 2004 (as amended, the "BVI Act") and the common law of the British Virgin Islands. The rights of shareholders to take legal action against our directors, actions by minority shareholders and the fiduciary responsibilities of our directors under British Virgin Islands law are to a large extent governed by the common law of the British Virgin Islands and by the BVI Act. The common law of the British Virgin Islands is derived in part from comparatively limited judicial precedent in the British Virgin Islands as well as from English common law, which has persuasive, but not binding, authority on a court in the British Virgin Islands. The rights of our shareholders and the fiduciary responsibilities of our directors under British Virgin Islands law are not as clearly established as they would be under statutes or judicial precedents in some jurisdictions in the United States. In particular, the British Virgin Islands has a less developed body of securities laws as compared to the United States, and some states (such as Delaware) have more fully developed and judicially interpreted bodies of corporate law. As a result of the foregoing, holders of our ordinary shares may have more difficulty in protecting their interests through actions against our management, directors or major shareholders than they would as shareholders of a U.S. company. See *Item 16G: Corporate Governance*.

**The laws of the British Virgin Islands provide limited protection for minority shareholders, so minority shareholders will have limited or no recourse if they are dissatisfied with the conduct of our affairs.**

Under the laws of the British Virgin Islands, there is limited statutory law for the protection of minority shareholders other than the provisions of the BVI Act dealing with shareholder remedies (as summarized under *Item 16G: Corporate Governance*). The principal protection under statutory law is that shareholders may bring an action to enforce the constituent documents of the company and are entitled to have the affairs of the company conducted in accordance with the BVI Act and the memorandum and articles of association of the company. As such, if those who control the company have persistently disregarded the requirements of the BVI Act or the provisions of the Company's memorandum and articles of association, then the courts will likely grant relief. Generally, the areas in which the courts will intervene are the following: (i) an act complained of which is outside the scope of the authorized business or is illegal or not capable of ratification by the majority; (ii) acts that constitute fraud on the minority where the wrongdoers control the company; (iii) acts that infringe on the personal rights of the shareholders, such as the right to vote; and (iv) acts where the company has not complied with provisions requiring approval of a special or extraordinary majority of shareholders, which are more limited than the rights afforded minority shareholders under the laws of many states in the United States.

To the extent allowed by law, the rights and obligations among or between us, any of our current or former directors, officers and employees and any current or former shareholder will be governed exclusively by the laws of the British Virgin Islands and subject to the jurisdiction of the British Virgin Islands courts, unless those rights or obligations do not relate to or arise out of their capacities as such. Although there is doubt as to whether United States courts would enforce these provisions in an action brought in the United States under United States securities laws, these provisions could make judgments obtained outside of the British Virgin Islands more difficult to enforce against our assets in the British Virgin Islands or jurisdictions that would apply British Virgin Islands law.

**British Virgin Islands companies may not be able to initiate shareholder derivative actions, thereby depriving shareholders of one avenue to protect their interests.**

British Virgin Islands companies may not have standing to initiate a shareholder derivative action in a federal court of the United States. The circumstances in which any such an action may be brought, and the procedures and defenses that may be available in respect of any such action, may result in the rights of shareholders of a British Virgin Islands company being more limited than those of shareholders of a company organized in the United States. Accordingly, shareholders may have fewer alternatives available to them if they believe that corporate wrongdoing has occurred. The British Virgin Islands courts are also unlikely to recognize or enforce judgments of courts in the United States based on certain liability provisions of United States securities law or to impose liabilities, in original actions brought in the British Virgin Islands, based on certain liability provisions of the United States securities laws that are penal in nature. There is no statutory recognition in the British Virgin Islands of judgments obtained in the United States, although the courts of the British Virgin Islands will generally recognize and enforce the non-penal judgment of a foreign court of competent jurisdiction without retrial on the merits. This means that even if shareholders were to sue us successfully, they may not be able to recover anything to make up for the losses suffered.

***Dividend payments on our ordinary shares are not expected.***

We do not currently intend to pay dividends on our ordinary shares. We intend only to pay such dividends at such times, if any, and in such amounts, if any, as the board determines appropriate and in accordance with applicable law, and then only if we receive dividends from our operating subsidiaries. Therefore, we cannot give any assurance that we will be able to pay or will pay dividends going forward or as to the amount of such dividends, if any.

***Shareholders may experience a dilution of their percentage ownership if we make non-pre-emptive offers of ordinary shares in the future.***

We have opted-out of statutory pre-emptive rights pursuant to the terms of our Memorandum and Articles of Association. No pre-emption rights therefore exist in respect of future issuance of ordinary shares whether or not for cash. Should we decide to offer additional ordinary shares on a non-pre-emptive basis in the future, this could dilute the interests of shareholders and/or have an adverse effect on the market price of the ordinary shares.

**Risks Related to Taxation**

***Changes in tax law and practice may reduce any net returns for shareholders.***

The tax treatment of the Company, our shareholders and any subsidiary of ours (including Iglo and its subsidiaries), any special purpose vehicle that we may establish and any other company which we may acquire are all subject to changes in tax laws or practices in the British Virgin Islands, the UK, the U.S. and any other relevant jurisdiction. Any change may reduce the value of your investment in our ordinary shares.

***Failure to maintain our tax status may negatively affect our financial and operating results and shareholders.***

If we were to be considered to be resident in or to carry on a trade or business within the United States for U.S. taxation purposes or in any other country in which we are not currently treated as having a taxable presence, we could be subject to U.S. income tax or taxes in such other country on all or a portion of our profits, as the case may be, which may negatively affect our financial and operating results.

***Taxation of returns from subsidiaries may reduce any net return to shareholders.***

We and our subsidiaries are subject to taxes in a number of jurisdictions. It is possible that any return we receive from any present or future subsidiary may be reduced by irrecoverable withholding or other local taxes and this may reduce the value of your investment in our ordinary shares.

***If any dividend is declared in the future and paid in a foreign currency, U.S. holders may be taxed on a larger amount in U.S. Dollars than the U.S. Dollar amount actually received.***

U.S. holders will be taxed on the U.S. Dollar value of dividends at the time they are received, even if they are not converted to U.S. Dollars or are converted at a time when the U.S. Dollar value of the dividends has fallen. The U.S. Dollar value of the payments made in the foreign currency will be determined for tax purposes at the spot rate of the foreign currency to the U.S. Dollar on the date the dividend distribution is deemed included in such U.S. holder's income, regardless of whether or when the payment is in fact converted into U.S. Dollars.

***We may be a "passive foreign investment company" for U.S. federal income tax purposes and adverse tax consequences could apply to U.S. investors.***

The U.S. federal income tax treatment of U.S. holders will differ depending on whether the Company is considered a passive foreign investment company ("PFIC"). In general, we will be considered a PFIC for any taxable year in which: (i) 75 percent or more of our gross income consists of passive income; or (ii) 50 percent or more of the average quarterly market value of our assets in that year are assets that produce, or are held for the production of, passive income (including cash). For purposes of the above calculations, if we, directly or indirectly, own at least 25 percent by value of the stock of another corporation, then we generally would be treated as if we held our proportionate share of the assets of such other corporation and received directly our proportionate share of the income of such other corporation. Passive income generally includes, among other things, dividends, interest, rents, royalties, certain gains from the sale of stock and securities, and certain other investment income. We do not believe that we will be a PFIC for our current taxable year. However, because the composition of the Company's income and assets will vary over time, we can provide no assurance that we will not be a PFIC for any taxable year. See item 10.E., U.S. Federal Income Taxation, Passive Foreign Investment Company ("PFIC") Considerations.

## Item 4. Information on the Company

### A. History and Development of the Company

We are the leading manufacturer and distributor of branded frozen foods in Western Europe based on net sales value. We were incorporated with limited liability under the laws of the British Virgin Islands under the BVI Companies Act on April 1, 2014 under the name Nomad Holdings Limited by the Founder Entities. We were formed to undertake an acquisition of a target company or business. We completed our initial public offering in the UK on April 15, 2014.

Our principal executive offices are located at No. 1 New Square, Bedfont Lakes Business Park, Feltham, Middlesex, TW14 8HA. Our telephone number is +(44) 208 918 3200 and our fax number is +(44) 208 918 3491. Our registered office is located at Nemours Chambers, Road Town, Tortola, British Virgin Islands and its telephone number is (284) 852-7900. Our registered agent in the United States is Mariposa Capital, LLC, 500 South Pointe Drive, Suite 240 Miami Beach, Florida 33139.

The SEC maintains an Internet website that contains reports, proxy and information statements, and other information regarding the Company and other issuers that file electronically with the SEC. The SEC's Internet website address is <http://www.sec.gov>. Our Internet website can be found at [www.nomadfoods.com](http://www.nomadfoods.com).

See *Item 5B: Operating and Financial Review and Prospects—Liquidity and Capital Resources* for information regarding our capital expenditures for the past three fiscal years and principal capital expenditures currently in progress.

### B. Business Overview

#### Our Company

We are the leading branded frozen food player in Western Europe with a portfolio of best-in-class food brands within the frozen category, including fish, vegetables, poultry and meals (excluding ice cream). Our products are sold primarily through large grocery retailers under the brands “Birds Eye”, “Aunt Bessie’s” and “Goodfella’s” in the UK and Ireland, “Findus” in Italy, San Marino, France, Spain, Sweden and Norway, “Iglo” in Germany and other continental markets and “La Cocinera” in Spain. According to Euromonitor, our share of the savory frozen food market in the countries we operate stood at 12.6% in 2019 (1.9 times greater than the nearest competitor). We maintain the number one position in seven European geographies, namely the UK, Italy, Germany, Sweden, Austria, Spain, Belgium, Portugal and Ireland. The countries representing our top six markets, collectively UK, Italy, Germany, Sweden, Norway and France, represented approximately 68% of the total Western European frozen food markets. For a description of the principal markets in which we compete and related revenue, see Note 5 “Segment reporting” to our audited consolidated financial statements which appear elsewhere in this annual report.

#### Frozen Food Market

The European frozen food market is served by a number of national and international producers, both with branded and private label offerings, and within single or multiple product categories. We have the broadest participation by category and geography in Europe.

According to Euromonitor, the savory frozen food market in Western Europe is estimated to have generated € 28 billion in retail sales value in 2019. The frozen food business requires specialized manufacturing, logistics and distribution functions. There is also a high cost associated with building brand health, brand awareness and consumer trust. As a result, there are high barriers for profitable entry into the frozen food market in general and the branded segment in particular.

Frozen food products are particularly attractive because they address important global food trends. Consumers increasingly prefer products that allow them to prepare meals quickly and with confidence, and expect products to be healthy and good value for money. In addition, consumers are increasingly focused on reducing food waste. Frozen food products can have all of these characteristics. They are easy to prepare, they reduce the need for artificial preservatives, they are often better value for money than chilled alternatives and they reduce waste at all points in the supply chain and also in-home (due to the long shelf life, and the ease of portionability).

Over the last five years, notwithstanding the volatile macro-economic environment, the Western European savory frozen food market has grown on average 1.5% per year, driven by the aforementioned ability to address global food consumption trends. Furthermore, the amount of space that frozen food as a category occupies within the grocery retail environment is relatively stable due to the fixed amount of freezer space at the retailer that is not exposed to reductions in shelf space in favor of other categories or formats, as can be the case in shelf-stable parts of the retailer.

## **Our Brands**

Our brands are household names with long histories and local heritage in their respective markets. Our *Birds Eye* brand was established in 1922 and is primarily marketed in the UK and Ireland, and the *Aunt Bessie's* brand was established in 1974 in the UK. The *Goodfella's* brand was established in Ireland in 1993 and is marketed also in the UK. The *San Marco* brand was established in 2003. The *Findus* brand, which is marketed in Italy, France, Spain, Sweden and Norway, was formed in Italy in 1941 and has a loyal following in each of its respective geographies. *Iglo*, founded in 1956, has a long-standing history and is marketed in Germany and other continental European countries. *La Cocinera* has allowed us to establish ourselves in Spain through a brand that was founded in 1962.

## **Our Competitive Strengths**

We believe the following competitive strengths differentiate us from our competitors and contribute to our ongoing success.

### ***Market leader with solid European platform and strong acquisition opportunities.***

As the leading branded frozen food producer in Western Europe, we benefit from economies of scale and have developed a strong platform for our products throughout Europe in 2019, resulting in leadership positions in seven geographies and a 12.6% market share of the savory frozen food market in the countries we operate. We benefit from longstanding relationships with our customers which provide access to our diversified distribution channels, including supermarkets, discount retailers, the foodservice channel and other food retailers that sell directly to consumers. We benefit from a diverse category and geographic mix and believe our strong existing platforms facilitate our expansion within a large addressable market and provide a broad set of potential acquisition targets in various food categories and geographic markets.

### ***Effective brand equity strategy to leverage and expand well-known brands.***

Our brands are well-established household names with long histories and local heritage in their respective markets. We possess several iconic brand assets and focus on our local "hero" platforms that are designed to leverage these iconic assets such as the "Captain". Each of the *Birds Eye*, *Goodfella's*, *Aunt Bessie's*, *Iglo* and *Findus* brands holds a leading position in terms of spontaneous brand awareness in certain European markets. Our leading brand recognition, broad product offering, and local provenance of these brands are key drivers of consumer trust and result in demand for our products.

### ***Experienced management team and Board with a proven track record.***

Our management team has extensive experience in the food industry and other fast moving consumer goods markets and has worked with leading multinational consumer goods companies globally. Our management team is complemented by an experienced Board of Directors, and collectively, they have a proven track record of successfully acquiring, integrating and managing consumer businesses. We believe our management team and Board of Directors' collective industry knowledge, coupled with our track record of achieving growth and responding to challenging market conditions, will enable us to continue to generate profitable growth.

### **Optimized sourcing through established platform and diversified supplier base.**

We operate an efficient and centralized procurement and supply chain function which is closely aligned with our geographic footprint, allowing us to optimize our supply arrangements and reduce distribution costs. We source our products globally from a diverse supplier base and, as a result, we minimize our dependency on any one supplier. Our relationships with diverse suppliers enable us to safeguard the security of our supply and raw materials as well as enhance the quality and sustainability of such materials, while also delivering competitive pricing and limiting exposure to geographic risk and adverse currency movements.

### **Strategic and geographically diversified manufacturing facilities.**

We own and operate an efficient network of thirteen manufacturing facilities with low capital expenditure requirements, all of which are located near the major markets we serve, providing for a balance between manufacturing and logistics costs and allowing for high levels of customer service. These facilities produce approximately 550 kilo tonnes of frozen product per year and have what we believe to be sufficient spare capacity to accommodate future growth in our main product categories.

### **Commitment to innovation and research and development.**

We focus our new product efforts and our investment in market research on our Core products - fish, vegetables, meals and poultry - to ensure that the products we launch and re-launch overcome penetration barriers and win with consumers. For example, we recently introduced our vegetable based meat free innovations to meet a growing consumer need and trend. To ensure the development and introduction of successful products, we follow a structured process through which we move from idea generation, through concept screening, concept/product development and early volume sizing, to scale up and final validation.

### **Our Strategy**

Our strategy is underpinned by three fundamental pillars which are to expand the category, grow the core and accelerate innovation. In addition, we have developed and made significant progress in implementing the following strategic initiatives:

#### **1. Build an integrated group of best-in-class food companies and brands within existing and related food categories and expand our geographic footprint through strategic acquisitions.**

Our goal is to transform our company into an integrated best-in-class, global manufacturer, marketer and distributor of food products, within and outside of the frozen food category and the broader food sector. We believe there are significant growth opportunities in the European and North American markets and that our acquisitions provide a strong platform on which to grow our business and expand and enhance our market share in the food industry in key geographic markets.

#### **2. Focus on “Core” products as a foundation for long-term growth.**

We continue our strategy which is rooted in relentless focus on our Core products which currently represent approximately 68% of our sales. These strategies include improving product quality, packaging renovation and executing in-store initiatives such as ensuring the right product assortment, display strategies and promotional efficiencies. We believe focusing on these Core product initiatives will accelerate growth, lead to margin expansion and improve our return on investment. To further accelerate growth, we continue to pursue innovation which leverages consumer trends such as health, wellness and convenience, but which are anchored in our core categories.

#### **3. Align our business with consumer preferences and trends.**

Our goal is to create and acquire food businesses and brands that strongly align with consumer needs and preferences that have high growth and margin potential and that leverage our existing portfolio of brands. In addition, we seek to align our product innovation strategies with consumer trends such as increased demand for nutrition-packed meals that can be prepared in shorter times, vegetarian options, meat substitutes and sustainably sourced and produced food.

#### **4. Leverage our acquisition expertise, strong management team and access to capital to identify and evaluate attractive growth opportunities.**

Our Founders and CEO have significant experience and expertise, and have been highly successful, in identifying, acquiring and integrating value-added businesses. We believe that this expertise, our access to capital and the deep industry knowledge of our management team will position us to acquire related and complementary food businesses that can enhance our market position, create synergies and fully leverage our existing marketing, manufacturing and supply chain capabilities, which we believe will allow us to deliver sustained profitable growth and maximize shareholder value. For example, on April 21, 2018 we completed the Goodfella's Acquisition including the *Goodfella's* and *San Marco* brands. This has enlarged our portfolio of brands to include the number one and number two market share positions within the frozen pizza category in Ireland and the UK, a successful frozen private label pizza business, and two frozen pizza manufacturing facilities. Also, on July 2, 2018 we completed the Aunt Bessie's Ltd. acquisition. Aunt Bessie's is a leading frozen food company based in the UK where it manufactures, distributes and sells a range of branded frozen food products. The Aunt Bessie's brand holds number one and number two market share positions, respectively, within frozen Yorkshire puddings and frozen potatoes, which combine to represent the majority of its revenues. As a brand closely identified with roast dinners, Aunt Bessie's has expanded Nomad Foods' portfolio into this major eating occasion. The acquisition also included a production facility in Hull, England.

#### **5. Respond to changing consumer shopping habits and drive advertising efficiency and impact.**

We are responding to the growing consumer shift to digital and mobile technologies, particularly in the UK, by investing in technology platforms and partnering with retailers that are executing their own e-commerce strategies to meet changing consumer habits. Online sales represented approximately 4% of our total sales as of December 31, 2019. We believe that the online sales channel will continue to provide further opportunities to drive market share gains through improved product content and upselling of our mealtime solution programs. In addition, our strategies are evolving in response to other consumer shopping trends such as increased purchases through the hard discounter channel, which has been growing significantly in the UK and Southern Europe.

To further understand consumer trends and communicate with our consumers, we have begun to use more scientific methods to test creative concepts to better understand and drive consumer reaction and to optimize our advertising investments.

#### **6. Generate strong margins and cash flow through disciplined net revenue management, supply chain optimization and disciplined cost management.**

We continue to increase our margins and cash flows by strengthening our net revenue management capabilities and focusing on supply chain optimization and disciplined cost management. These efforts, which will be implemented over time, will include developing stronger promotional programs, price pack architecture and trade terms as well as continuing our focus on lean manufacturing, factory footprint optimization, and procurement productivity.

### **Products**

During the past three fiscal years, we have manufactured, marketed and distributed the following frozen food products:

**Fish:** includes frozen fish products such as fish fingers, coated fish and natural fish. These products were the largest contributor to our revenues in 2019, 2018 and 2017.

**Vegetables:** includes ready to cook vegetable products such as peas and spinach.

**Meals:** includes ready to cook noodles, pasta, lasagne, pancakes and other ready-made meals under the *Iglo*, *Findus* and *La Cocinera* brand names.

**Poultry:** includes frozen poultry and meat products such as nuggets, grills and burgers.

**Others:** includes a variety of other offerings such as soups, pizza, bakery goods and, beginning in 2019, meat substitutes.

We continue to place a strong emphasis on renovation of our existing Core products, which include fish, vegetables, meals and poultry, in order to overcome penetration barriers and continue to build loyalty. For example, in 2019, we introduced under our new innovation platforms our *Artisan* (coated fish assortment), *Veggie Power* (modern vegetable blends) and *Green Cuisine* (pea protein sub-brand). We manage renovation and innovation centrally on European common product platforms and have more local involvement where products are differentiated and country specific. Our research and development continues to be centralized, allowing us to leverage our research and development investment across our markets and focus on our largest Core products.

## Customers

Our customers are typically supermarkets and large food retail chains supplying food products directly to consumers. Each key market in which we operate has its own distinct retail landscape. We consider our key retailer clients to be, in the UK, Tesco, Asda and Sainsbury's; in Italy, Coop, Conad and Esselunga; in Germany, Rewe and Edeka; in Sweden, ICA, Axfood and Coop; and in France, Carrefour, Auchan and E.Leclerc. For the year ended December 31, 2019, our top ten customers (in terms of revenue) accounted for 36% of revenues.

The majority of our sales are to established retailers and we expect this channel to remain our most significant channel for the foreseeable future. We partner with traditional retailers when we identify commercial or marketing opportunities that can be of interest for both businesses. In addition, we are selectively building partnerships and are increasing our presence in the growing discounter channel.

We are increasing our investment in online sales, which represented approximately 4% of our total sales as of December 31, 2019. The online grocery retail channel is growing faster than established grocery retail formats across developed markets. Frozen foods particularly benefit from the online channel as the advantages to the consumer of outsourcing transportation of frozen food to the retailer are greater than in other categories, and also because some of the barriers to purchasing in-store (e.g. colder aisles) are removed for the consumer online.

Approximately 5% of our sales for the twelve month period ended December 31, 2019 were through the foodservice channel. The majority of these sales were in Sweden and consist primarily of sales of institutional and public sector customers such as schools and hospitals as well as privately run work canteens and quick service restaurants.

## Sales, Marketing and Pricing

Our commercial strategy is centered around our Core products and our growth model focuses on three core elements: creating distinctive brands through leveraging our iconic brand assets, innovating to break penetration barriers balanced between renovation and innovation, and out executing in store through category leadership driving the right assortment, display and promotional efficiency.

Our brand equity strategy aims to further increase brand awareness. We are utilizing our core iconic assets at all consumer touchpoints including traditional media, digital media, point of sale and packaging. Furthermore we have invested and will continue to seek to invest at sufficient levels of media on all our Core products.

We maintain sales teams in each of our key markets and all other markets in which our products are sold with the exception of the Central and Eastern Europe markets where we operate via a distribution model. Our sales force is resourced to provide good store coverage. We have been chosen to lead category management projects by several leading supermarkets in each of our main product categories and have developed innovative presentations of our frozen food products and in-store marketing concepts with supermarkets in a number of our markets in order to increase shopper traffic and sales. Most recently, we have developed and are executing our "Perfect Store" concept which focuses on improving a consumer's in-store shopping experience through presentation, layout and signage.

## Manufacturing

We own and operate thirteen manufacturing facilities which are located in Lowestoft and Hull (UK), Bremerhaven and Reken (Germany), Cisterna (Italy), Loftahammar and Bralanda (Sweden), Tonsberg and Larvik (Norway), Boulogne-sur-Mer (France), Valladolid (Spain), Longford and Naas (Republic of Ireland). These facilities produce approximately 550 kilo tonnes of frozen product per year, representing approximately 70% of the total volumes of our sales. The manufacturing facilities are located near the major markets we serve, providing for a balance between manufacturing and logistics costs and customer service. Our manufacturing facilities are focused on in house manufacturing of our main product categories and emphasize quality and efficiency through scale. We have also invested in automated lines, such as fish fingers, poultry and spinach lines.

Although capacity differs per product line and facility, we estimate that we have sufficient spare capacity available to accommodate future growth in our main product categories and as necessary to accommodate the seasonal nature of some of our products, particularly vegetables.

## Procurement

Our procurement functions are structured around primes (materials used in manufacturing which form a part of the end product, such as fish, vegetables, meat, other ingredients and packaging), non-production items (items purchased and services used to design, market and distribute the product, such as logistics, operations, including maintenance, sales and marketing) and co-pack (finished products bought from third parties, such as most vegetables other than peas and spinach).

We have an efficient and centralized supply chain which is closely aligned with our geographic footprint, allowing us to optimize our supply arrangements and reduce distribution costs. We operate a centralized procurement function, with all procurement of primes and the majority of non-production items and co-pack procurement activities centralized to maximize scale efficiencies.

We operate a global sourcing platform. Fish is sourced mainly from the United States, Russia and China, vegetables are sourced predominantly from Europe and poultry is sourced largely from South America (but also from Thailand and Eastern Europe). We have contracts in place with pea and spinach growers and third party pea processors in regions close to the location of pea growers. In addition, we utilize various co-pack suppliers for vegetables other than peas and spinach. The contract terms we enter into with various suppliers differ extensively with respect to length and provisions.

We aim to maintain an appropriately diverse supplier base to safeguard the security of our supply of raw materials as well as enhance the quality and sustainability of such materials, while also delivering competitive pricing.

We segregate vendors into “strategic” and “tactical” categories based on criteria such as bargaining power or opportunistic procurement. On that basis, we have identified a number of strategic suppliers with whom we maintain close relationships, particularly in relation to main product categories for which security of supply is critical. Raw materials are mostly directly shipped to our manufacturing facilities.

The price of fish, vegetables and other agricultural commodities, including poultry and meat, can be volatile. We limit our exposure to price increases of raw materials by contractually securing prices for periods ranging from one month to a full year. Prices of raw materials that are harvested annually are generally fixed for a full year. Prices for certain other products, such as fish, dairy products and potatoes, are fixed for several months in line with industry practice.

## Logistics

Our distribution network is made up of our manufacturing facilities, warehouses, local distribution centers and third party providers of services (such as transport). We outsource the majority of our distribution processes to third parties seeking to collaborate with shared sites and integrated transport networks. Our distribution network is well consolidated and aligned with our manufacturing footprint in the UK, Ireland, Germany, Italy, Sweden, France, Norway and Spain. From our manufacturing plants, our products are sent to regional distribution centers to be further distributed to local markets. Our primary distribution centers are used to consolidate both local production and imported products to be sold locally. These sites include Wisbech in the UK, Reken in Germany, Vitulazio, Latina and Parma in Italy, Lognes in France, Tonsberg and Moss in Norway and Marcilla in Spain.

## Seasonality

Our sales and working capital levels have historically been affected to a limited extent by seasonality. In general, sales volumes for frozen food are slightly higher in colder or winter months, partly because there are fewer fresh alternatives available for vegetables and because our retailers typically allocate more freezer space to the ice cream segment in hotter or summer months. In addition, variable production costs, including costs for seasonal staff, and working capital requirements associated with the keeping of inventories, vary depending on the harvesting and buying periods of seasonal raw materials, in particular vegetable crops. For example, stock levels typically peak in August to September just after the pea harvest, and as a result, we require more working capital during those months.

## Corporate Social Responsibility

We continuously review our position to mitigate supply chain risks, working to meet relevant ethical, environmental and social obligations. We seek to source, manufacture and sell our food to consumers in a responsible way. We operate a sustainability program called *Our Sustainable Path* that reflects our commitments.

We do this by endeavoring to:

- Meet all relevant food and safety regulations
- Uphold international sustainability standards
- Lead, manage and review our approach, regularly assessing progress
- Report progress annually through the Nomad Foods' Sustainability report

We also encourage all our suppliers to have or work towards a culture of continuous improvement.

Our sustainability program is based on the concepts of materiality and salience and aligned with the UN Sustainability Development Goals (SDGs). It consists of three pillars, securing a "farm to fork" approach:

### 1. Good Sourcing

- We focus on sustainably, responsibly sourced fish and seafood using independent sustainable standards, such as the Marine Stewardship Council standard (MSC) and Agriculture Stewardship Council (ASC). Our sustainable farming standards are expanding from regional practices to global standards with the introduction of the FSA standard (Farm Sustainability Assessment) from the Sustainable Agriculture Initiative (SAI).
- We are committed to ethical trading, sourcing and procurement, upholding fundamental international standards. We are committed to require all suppliers to comply with applicable human rights laws and regulations. We request our direct suppliers to register to Sedex, one of the world's largest collaborative platforms for sharing responsible sourcing data on supply chains.
- We believe we are in compliance with all relevant environmental laws and regulations and we expect all suppliers to do the same.

## 2. Good Nutrition

Every day our customers serve our food to their families. We want to inspire them to eat a more balanced diet and live healthier lifestyles.

- We continuously work to improve our product portfolio, applying a nutrition strategy informed by an independent Nutritional Advisory Board and assessing our products using an externally verified Nutrient Profiling Tool. We also apply on pack nutritional labeling claims in markets where this is relevant.
- We assess any new product development to drive higher sustainability across the portfolio.
- We empower consumers to make their own decisions, communicating the nutritional values of our products on pack.

## 3. Good Operations

- We recognize the importance of reducing the impact our operations have on the environment and are committed to reduce carbon emissions per tonne of produced volume from own production annually.
- We consider the total packaging system when designing packaging, recognizing packaging plays an important role in terms of food safety, securing shelf life, convenience, communication as well as sustainability. We aim to minimize packaging material use. We work towards making all consumer packaging material recyclable, and prioritize packaging material from sustainable origins.
- We believe that our people make the difference and make sure they have an active voice through the 'Our Voice' employee survey. Sustainability is important for our employees and we involve them in the work and encourage them to live our values every day.
- We actively work to engage with and add value to the broader communities we operate in, while contributing to our wider sustainability agenda. We encourage our local businesses to support social causes in their regions, engaging at a local level. For example, a majority of our businesses contribute our products to local food banks and charities.

## Information Technology

Our IT systems are critical to operating and growing our business, in particular to our general operations and logistics functions. A single SAP tool underpins the processes to support all of our operations and management reporting across countries with new tools being introduced to support Sales planning and Net Revenue Management activities.

The IT architecture is designed as a consolidation platform enabling integration of future acquisitions. During 2019, Nomad migrated both the Goodfella's and Aunt Bessie's businesses onto the Nomad platform and the IT team are looking at ways to accelerate future integrations. We believe that the role of data and analytics will continue to increase in importance in decision-making, and we therefore intend to continue to enhance our capability to use such data and analytics in our decision-making process.

The ability to integrate potential new acquisitions quickly with little or no adverse business impact, while maintaining the low cost of ownership, is a fundamental requirement of our IT strategy. Additionally, we utilize an outsourced infrastructure service provider, maintaining best in class IT cost alongside improved capability to scale in line with business developments.

## Intellectual Property

Good brand protection continues to be of significant importance to our business as we rely on our brands to implement our master brand strategy. We have a substantial trademark portfolio with around 1,800 trademarks across all of our markets. Our intellectual property is managed centrally, and we work closely with a third party agency in respect of filings, renewals, recordings and the prosecution and enforcement of intellectual property matters internationally.

We own an EU trademark for our *Birds Eye* brand as well as national trademarks for our *Birds Eye* brand in the UK, Ireland and other EU countries, and in other parts of Europe outside the EU, parts of the Middle East, Asia and parts of Africa. For historical reasons, the *Birds Eye* trademark is owned by third parties in North America and Australia.

We own a European Union trademark for our *Iglo* brand as well as national trademarks in many EU countries and in other parts of Europe outside the European Union, Australia, Israel, India, Canada, parts of Asia, South America and parts of Africa.

We own the *Findus* trademark in many countries globally, other than in Switzerland, as well as (among others) the brands *Lutosa* in Belgium (until 2020) and *La Cocinera* in Spain and Andorra. We have secured registration for *Nomad Foods* in Europe and China, and have pending applications for the name in the US.

*Goodfella's* and *Aunt Bessie's* joined our portfolio of brands in 2018 and are registered as European Union trademarks as well as national marks in other key markets of interest to the respective businesses. We are also in the process of securing registered protection for the new plant-based food sub-brand *Green Cuisine* across Europe.

## Material Contracts

Each material contract to which we have been a party for the preceding two years, other than those entered into in the ordinary course of business, is listed as an exhibit to the registration statement to which this annual report is a part and is summarized elsewhere herein.

## Pensions

We operate a number of different pension schemes across our various countries of operation, the majority of which are defined contribution schemes. We operate defined benefit pension plans in Germany, Sweden, Italy and Austria which are all closed to new entrants, as well as various defined contribution plans in other countries, the largest of which include Sweden and the UK. Long term service awards and other employee benefits are also in operation in a number of countries.

## Regulatory Matters

Our activities are subject to laws and regulations regarding food safety, the environment and occupational health and safety.

## Food Safety Regulation

As a manufacturer of foods intended for human consumption, we are subject to extensive legislation and regulation both from the European Union, the EU Member States and European free trade association (EFTA) members, in which we operate. The European Commission, Directorate-General for Health and Food Safety, is responsible for EU policy on food safety and health and for monitoring the implementation of related laws. The European Food Safety Authority advises the European Commission, the European Parliament and the EU Member States on food safety matters. EU Member States must ensure adequate enforcement, control and supervision of principles set forth in numerous EU Directives and Regulations and may be allowed to maintain or establish more stringent measures in their own legislation. These regulations govern the composition, manufacture, storage, handling, packaging, labeling, marketing and safety of our products. These regulations generally impose on food business operators an obligation to ensure that the operations under their control satisfy the relevant food law requirements and impose a mandatory traceability requirement along the food chain. The tracing information must be kept for a period of five years and upon request, must be made available to the relevant authorities.

In addition, we are subject to specific food hygiene legislation that establishes rules and procedures governing the hygiene of food products. This legislation sets forth specific rules governing the proper hygiene for food products of animal origin and sets forth microbiological criteria for food products. In addition there are a number of other specific EU requirements relating to specific matters such as contaminants, packaging materials and additives.

We are also subject to a broad range of European directives and regulations regarding the manufacture and sale of frozen foods for human consumption. These directives and regulations define technical standards of production, transport and storage of frozen foods intended for human consumption and require us to assure internal quality control at each stage of the “cold chain” and to implement any standards, as established by public authorities.

Listed below are the various internal due diligence procedures we have established to ensure continuous compliance with all relevant regulatory and food safety standards:

- implementing food hygiene principles across all production sites in accordance with food hygiene regulations;
- annual external auditing of our production sites conducted by independent compliance companies applying the British Retail Consortium Global Standard for Food Safety Issue 8, its European equivalent, the International Food Standard or the Global Food Safety Initiative. Currently 93% of our suppliers are also certified to one or more of these food safety management systems and it is our long term objective to achieve 100% certification;
- ensuring that our Group’s Quality Management Systems comply with ISO 9001 with external audits to ISO or BRC standard;
- conducting internal audits covering all production sites as part of our internal audit program (including cross-audits where one site’s audit team audits another’s system);
- maintaining a risk-based microbiological and contaminant screening program, including screening for allergens, that covers raw materials and finished products; and
- holding monthly regulatory updates to assess emerging risk areas, update policies and review outstanding issues as part of the quality forum meeting which is attended by functional heads.

#### **Tariffs and Trade**

We are subject to specific trade requirements regarding fish and poultry, two main ingredients for our products.

#### **Food Labeling Regulation**

Pre-packaged food products must comply with provisions on labeling, which are harmonized throughout the European Union. Pre-packaged food products must also comply with provisions on nutrition labeling, which are also harmonized throughout the European Union. Under the Food Information for Consumers Regulation nutrition labeling is mandatory unless exempted.

In addition to general and nutrition requirements, pre-packaged food products must bear a lot mark declaration via a manufacturing or packaging lot reference, which is also a harmonized system throughout the European Union. The lot reference allows consumers and businesses to trace the product in the event of a product withdrawal or recall.

There are also specific labeling requirements for certain ingredients we use in our products.

## Environmental Law

The European Commission, Directorate-General for the Environment is responsible for EU policy on the environment and for monitoring the implementation of related laws. The European Union has issued numerous directives relating to environmental protection, including those aimed at improving the quality of water, addressing air and noise pollution, assuring the safety of chemicals and setting standards for waste disposal and clean-up of contamination. European directives are given effect by specific regulations in Member States and applicable regulations have been implemented in each of the countries in which we conduct our manufacturing activities. Accordingly, our facilities must obtain permits for certain operations and must comply with requirements relating to, among others, water supply and use, water discharges and air emissions, solid and hazardous waste storage, management and disposal of waste, clean-up of contamination and noise pollution.

We are also subject to legislation designed to reduce energy usage and carbon dioxide emissions and also restrictions on the use of ozone depleting substances such as hydrochlorofluorocarbons (HCFCs). HCFCs are used in refrigeration systems and their use will be phased out as part of our normal maintenance, repair and replacement activities and we do not expect a need for significant incremental capital expenditures for this purpose.

Compliance with environmental laws and regulations is managed at the facility level. Our manufacturing facilities all have a detailed environmental management system which are externally audited on an annual basis for compliance with ISO 14001 or BRC.

In addition, under some environmental laws and regulations, we could be responsible for contamination we may have caused and investigating or remediating contamination at properties we own or occupy, even if the contamination was caused by a prior owner or other third party or was not due to our fault, and even if the activity which resulted in the contamination was legal at the time it occurred.

We are in full preparation for potential scenarios regarding the impending exit of the UK from the EU, as we understand the situation at the present time. We believe there will be no impact on our compliance need as the UK has stated a full and equivalent legislation structure will be in place in the immediate post-exit timeframe.

## Occupational Health and Safety

We have a legal responsibility to protect the health and safety of our employees, customers and any other persons who may be affected by our operations. We strive to provide a safe workplace; controlling and eliminating risks to health and wellbeing; ensuring that our facilities and the equipment within them are safe and that the environmental, health and safety procedures are both established and adhered to. We strive to ensure that dangerous articles and substances are transported, stored and used safely; provide adequate welfare facilities; provide workers with the information, instruction, training and supervision necessary to preserve and improve their health and safety; and consult with workers on health and safety matters.

We aim to meet the European Framework Directive on Safety and Health at Work (89/391 EEC) ensuring we comply with all the local and European legislation in all the countries we have a presence, ensuring we share best practices and procedures across our business to continuously improve our safety and environmental performance whilst driving a positive safety culture.

We have established a Health and Safety Management System modeled on the international Occupational Health & Safety management system specification OHSAS 18001. Our manufacturing facilities in the UK, Spain, Italy and Germany have achieved full accreditation to OHSAS 18001.

## Compliance Programs

We have established policies and procedures aimed at compliance with applicable legislation and regulations, including policies for Anti-Bribery and Corruption as well as Trade Sanctions. In addition, our Code of Business Principles is designed to ensure compliance with applicable legal and regulatory requirements to drive a strong compliance culture. A breach of the Code of Business Principles can lead to disciplinary action, including termination of employment.

Our SafeCall Line, which is operated by an external service provider, allows employees to report issues anonymously. Compliance at the local level is based in large part on building strong local companies and developing a proper approach in coping with operational dilemmas within the boundaries of applicable laws and responsible conduct. Local management, assisted by the Internal Audit department, carries out reviews to identify compliance risks and to ensure that adequate systems to manage those risks are in place. We continually analyze and assess changes in applicable laws and regulations, and implement appropriate adaptations are implemented when necessary.

## **Insurance**

We have a comprehensive Global Insurance Program covering all territories that the organization operates within and undertake regular risk reviews. We continually assess business risks as part of the review to ensure we maintain an effect insurance program covering risk exposures.

The Global Insurance Program encompasses coverages such as directors and officers, property damage and business interruption, public liability, product liability, employers liability, personal accident and travel, advertising, motor and marine.

## C. Organizational Structure

We (Nomad Foods Limited) are a holding company with 43 subsidiaries, the majority of which are wholly-owned by us. The following table provides a list of all of our significant subsidiaries and country of incorporation.

Name	Activity	Country of incorporation	Ownership as of December 31, 2019
Nomad Foods Europe Holdings Limited	Holding	England	100%
Nomad Foods Europe Holdco Limited	Holding	England	100%
Nomad Foods Europe Finco Limited	Holding	England	100%
Nomad Foods Europe Midco Limited	Holding/Finance	England	100%
Nomad Foods Bondco Plc	Finance	England	100%
Nomad Foods Lux S.à.r.l.	Finance	Luxembourg	100%
Nomad Foods Europe Limited	Management	England	100%
Birds Eye Limited	Trading	England	100%
Nomad Foods Europe Finance Limited	Finance	England	100%
Aunt Bessie's Limited	Non-Trading	England	100%
Birds Eye Ireland Limited	Trading	Republic of Ireland	100%
Birds Eye Ireland Oldco Unlimited Company	Non-Trading	Republic of Ireland	100%
Iglo Holding GmbH	Holding	Germany	100%
Iglo Nederland B.V.	Trading	Netherlands	100%
Iglo Belgium S.A.	Trading	Belgium	100%
Iglo Portugal	Trading	Portugal	100%
Iglo Austria Holdings GmbH	Holding	Austria	100%
C.S.I. Compagnia Surgelati Italiana S.R.L.	Trading	Italy	100%
Findus Sverige Holdings AB	Holding	Sweden	100%
Iglo GmbH	Trading	Germany	100%
Frozen Fish International GmbH	Trading	Germany	100%
Liberator Germany Newco GmbH	Property	Germany	100%
Iglo Austria GmbH	Trading	Austria	100%
Findus Sverige AB	Trading	Sweden	100%
Frionor Sverige AB	Holding	Sweden	100%
Findus Holdings France SAS	Holding	France	100%
Findus France SAS	Trading	France	100%
Findus Espana SLU	Trading	Spain	100%
Findus Danmark A/S	Trading	Denmark	100%
Findus Finland Oy	Trading	Finland	100%
Findus Norge AS	Trading	Norway	100%
Findus Norge Holding AS	Holding	Norway	100%
Toppfrys AB	Trading	Sweden	81%

## D. Property, Plant and Equipment

The following table sets forth information on the main manufacturing sites used by us in our business:

Facility	Products	Production (ktons)	Utilization %	Freehold/ Leasehold	Footprint
Boulogne, France	Fish Products	21	53%	Leasehold	Buildings: 11,000 m2
Bralanda, Sweden	Vegetables	10	35%	Freehold	Site: 80,000m2 Buildings: 40,000m2
Bremerhaven, Germany	Fish Products	93	89%	Leasehold	Site: 90,000 m2 Buildings: 30,000 m2
Cisterna, Italy	Vegetables, Free Flow Meals, Fish Fingers, Sofficini	71	67%	Freehold	Site: 269,560 m2 Buildings: 69,198 m2
Hull, UK	Yorkshire Puddings, Accompaniments & Desserts	26	55%	Freehold	Site: 39,000 m2 Buildings: 15,000 m2
Larvik, Norway	Vegetables, Free Flow Meals, Ready Meals	7	37%	Freehold	Site: 57,968 m2 Buildings: 7,246 m2
Loftahammar, Sweden	Bakery Products	3	56%	Freehold	Buildings: 5,300 m2 Site: 21,000 m2
Longford, ROI	Frozen Pizza Products	18	98%	Freehold	Buildings: 6,200 m2
Lowestoft, UK	Vegetables, Fish Products, Poultry, Potato, Beef Burgers	112	85%	Mixed	Site: 88,549 m2
Naas, ROI	Frozen Pizza Products	44	94%	Freehold	Buildings: 12,000 m2 Site: 20,000 m2
Reken, Germany	Vegetables, Free Flow Meals, Ready Meals, Special Foods	99	68%	Freehold	Buildings: 118,000 m2 Site: 43,000 m2
Tonsberg, Norway	French Fries, Vegetables, Free Flow Meals	30	87%	Leasehold	Buildings: 30,000 m2 Site: 58,000 m2
Valladolid, Spain	Vegetables, Free Flow Meals, Ready Meals, Pastry Products, Pizza	16	35%	Freehold	Buildings: 50,000 m2 Site: 80,000 m2

For more information on property, plant and equipment see Note 12 "Property, plant and equipment". We lease our principal executive offices located at No. 1 New Square, Bedfont Lakes Business Park, Feltham, Middlesex, TW14 8HA, which is 36,549 square feet in size.

### Item 4A. Unresolved Staff Comments

None.

### Item 5. Operating and Financial Review and Prospects

*The following is a discussion of the financial condition and results of operations for the years ended December 31, 2019 and 2018. Discussion regarding our financial condition and results of operations for the year ended December 31, 2018 as compared to the year ended December 31, 2017 is included in Item 5 of our Annual Report on Form 20-F for the year ended December 31, 2018, filed with the SEC on February 28, 2018 (the "2018 Form 20-F").*

Some of the information contained in this discussion and analysis or set forth elsewhere in this annual report, including information with respect to our plans and strategy for our business and related financing, includes forward-looking statements that involve risks and uncertainties. As a result of many factors, including those factors set forth in Item 3 Key Information-D. Risk Factors of this annual report, our actual results could differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis. This discussion should be read in conjunction with our audited historical consolidated financial statements and other financial information included elsewhere in this annual report.

The historical financial information has been prepared in accordance with IFRS.

## Overview

Nomad operates in the European frozen food market, selling its products primarily to large grocery retailers either directly or through distribution arrangements primarily in the UK, Italy, Germany, Sweden, France and Norway.

The countries representing our top six markets collectively represented approximately 68% of the total Western European frozen food markets (in terms of retail sales value) and generated 80% of our revenue in 2019. We also sell our products in Ireland, Austria, Belgium (including the *Belviva/Lutosa* brand), Finland, Greece, Hungary, Ireland, Portugal, Switzerland, Denmark, The Netherlands and Spain (including the *La Cocinera* brand). The brands under which we sell our products are "*Birds Eye*", "*Aunt Bessie's*" and "*Goodfella's*" in the UK and Ireland, "*San Marco*" in the UK, "*Findus*" in Italy, San Marino, France, Spain, Sweden and Norway and "*Iglo*" in Germany and other continental markets.

We currently operate thirteen manufacturing plants, two in Germany, two in Sweden, two in Norway, two in Ireland, two in the UK and one each in Spain, Italy and France.

## Financings and Acquisitions

On June 15, 2018, we amended and restated our Senior Facilities Agreement (as defined herein) establishing a \$300.0 million incremental term loan and increasing the amount of U.S. Dollar Term Loans to \$953.4 million. Principal outstanding under the Euro-denominated term loan remained unchanged at €558.0 million. Maturity dates of May 2024 and May 2023 for both Euro and U.S. Dollar denominated Term Loans, and the €80.0 million Revolving Credit Facility respectively also remained unchanged.

On April 21, 2018 we completed the Goodfella's Acquisition, including the *Goodfella's* and *San Marco* brands, in an all cash deal valued at £209.7 million (€239.0 million). This has enlarged our portfolio of brands to include the number one and number two market share positions within the frozen pizza category in Ireland and the UK respectively, a successful frozen private label pizza business, and two frozen pizza manufacturing facilities.

On July 2, 2018 we completed the Aunt Bessie's Ltd. Acquisition for a purchase price of £209.0 million (€235.9 million). Aunt Bessie's is a leading frozen food company based in the UK where it manufactures, distributes and sells a range of branded frozen food products. The *Aunt Bessie's* brand holds number one and number two market share positions, respectively, within frozen Yorkshire puddings and frozen potatoes, which combine to represent the majority of its revenues. As a brand closely identified with roast dinners, *Aunt Bessie's* has expanded Nomad Foods' portfolio into this major eating occasion. The acquisition also included a production facility in Hull, England.

On March 22, 2019 we issued 20,000,000 ordinary shares in a public offering at \$20.00 per share for aggregate gross proceeds of \$400.0 million (€353.6 million). Directly attributed transaction costs of €11.1 million were incurred.

## Accounting for the Goodfella's Acquisition

We have reflected the Goodfella's acquisition in our consolidated financial statements prepared in accordance with IFRS from the date of the acquisition, April 21, 2018.

We have accounted for the acquisition using the purchase method as required by IFRS 3 "Business Combinations". The net assets of the Goodfella's acquisition has been adjusted to fair value as of April 21, 2018, the date when control passed to us. The excess of the costs of acquisition over the fair value of the assets and liabilities of the Goodfella's acquisition is recorded as goodwill. IFRS 3 "Business Combinations" allows the Company a year after the acquisition date in which to finalize the purchase price allocation. No changes have been made to the preliminary findings that were included within our consolidated financial statements as of December 31, 2018.

#### **Accounting for the Aunt Bessie's Ltd. Acquisition**

We have reflected the Aunt Bessie's Ltd. acquisition in our consolidated financial statements prepared in accordance with IFRS from the date of the acquisition, July 2, 2018.

We have accounted for the acquisition using the purchase method as required by IFRS 3 "Business Combinations". The net assets of the Aunt Bessie's Ltd. acquisition has been adjusted to fair value as of July 2, 2018, the date when control passed to us. The excess of the costs of acquisition over the fair value of the assets and liabilities of the Aunt Bessie's Ltd. acquisition is recorded as goodwill. IFRS 3 "Business Combinations" allows the Company a year after the acquisition date in which to finalize the purchase price allocation and so preliminary findings were included within our consolidated financial statements as of December 31, 2018. An adjustment of €1.9 million has been recognized in the year to December 31, 2019 to recognize pre-acquisition related liabilities.

#### **Critical Accounting Estimates and Judgments**

Information relating to "Critical Accounting Estimates and Judgments" are described in Note 4 to the Financial Statements. The following is a review of the more significant assumptions and estimates as well as accounting policies we used to prepare our consolidated financial statements.

##### *Discounts and trade promotions*

Discounts given by the Company include rebates, price reductions and incentives given to customers, promotional couponing and trade communication costs. Each customer has a unique agreement that is governed by a combination of observable and unobservable performance conditions.

Trade promotions comprise of amounts paid to retailers for programs designed to promote Company products and include pricing allowances, merchandising funds and customer coupons, which are offered through various programs to customers and consumers. The ultimate costs of these programs can depend upon retailer performance and is the subject of significant management estimates. The estimated ultimate cost of the program is based upon the programs offered, timing of those offers, estimated retailer performance based on history, management's experience and current economic trends.

At each financial year end date, any discount or trade promotion expense incurred but not yet invoiced is estimated and accrued for. In certain cases, the estimate for discounts and trade promotions requires the use of forecast information for future trading periods and therefore a degree of estimation uncertainty exists. These estimates are sensitive to variances between actual results and forecasts. The estimate is based on accumulated experience and the principle that revenue is only recognized to the extent that it is highly probable that a significant reversal will not occur. Management use judgment when considering when accruals can be released.

##### *Business combinations*

The Company is required to recognize separately, at the acquisition date, the identifiable assets, liabilities and contingent liabilities acquired or assumed in a business combination at their fair values. This involves a judgment as to what intangible assets can be separately identified as well as an estimate of fair value of all assets and liabilities acquired. Such estimates are based on valuation techniques, which require considerable estimation in forecasting future cash flows and developing other assumptions. These estimates are based on information available on the acquisition date and assumptions that have been deemed reasonable by management.

Significant areas of judgment and estimation include valuing tangible and intangible assets, including the determination of their remaining useful lives, as well as the consideration of liabilities, including uncertain tax positions. Where such items are material to the financial statements, we engage third-party valuation firms to assist in the valuation. The valuation of these assets and liabilities is based on the assumptions and criteria which include, in some cases, estimates of future cash flows discounted at the appropriate rates. The choice of assumptions and valuation technique can lead to significant differences in the valuation. We believe that the assumptions and techniques applied are reasonable based on information available on the date of acquisition.

No acquisitions have been made in 2019, although the Company has finalized the acquisition accounting for acquisitions made in 2018 as disclosed in Note 14 in Item 18.

#### *Carrying value of goodwill and brands*

As of December 31, 2019, the Company has reported Goodwill of €1,862.9 million as well as indefinite-lived brands of €2,041.8 million. The Company's goodwill and brand values have been allocated based on the enterprise value at acquisition of each cash generating unit. Goodwill is monitored at an operating segment level for which Nomad has one reporting and operating segment, 'Frozen'. As required by IAS 36 "Impairment of Assets", an annual review of the carrying amount of the goodwill and the indefinite life brands is carried out to identify whether there is any impairment to these carrying values. This is performed in the fourth quarter of each year. A qualitative review is performed to coincide with all interim reporting periods, which is extended to a full review where indicators of impairment are identified. Indicators of impairment include a sustained decrease in our market capitalization or sustained deterioration in any factor that affects profitability, such as market share or competition. The review is performed using the discounted cash flows model whereby a comparison of the carrying values to the value in use is made. As there is one reporting and operating segment, value in use is calculated as the net present value of the projected risk-adjusted cash flows of the Company as a whole.

The estimation of the value in use calculation requires the entity to estimate the future cash flows expected to arise from the Company and apply a suitable discount rate in order to calculate present value. This requires us to make assumptions and estimates regarding historical information, future plans and external sources. Assumptions used are consistent with internal projections and we believe these are comparable to those used by other participants in the market. Unanticipated changes to the market or wider economy may affect the assumptions made and lead to reduced cash flows or higher discount rates, which could lead to an impairment being recognized.

The discount rate is calculated using a capital asset pricing model to determine a weighted average cost of capital expected by a market participant. Observable market data is used, including available information on comparable companies, such as expected rates of return and equity structure. These variables are influenced by macroeconomic factors and an increase in these variables could reduce the present values of future cash flows in the model. A pre-tax discount rate of 7.1% was applied to the cash flows in the 2019 review, as well as a long-term growth rate of 1.0%. Neither of these assumptions reflect the long-term assumptions used by the Company for investment planning.

Impairment was not required as at December 31, 2019. Valuations derived from the discounted cash flow model indicate a sufficient amount of headroom for which any reasonably possible change to key assumptions is unlikely to result in an impairment of the related goodwill.

#### *Employee benefit obligation*

The Group operates a number of defined benefit pension schemes and post-employment benefit schemes which are valued by estimating the amount of future benefit that employees have earned in return for their service in the current and prior periods. Each scheme has an actuarial valuation performed and is dependent on a series of assumptions to estimate the projected obligations. The assumptions include variables which are revised periodically, that include discount rates, expected salary increases, inflation, employee turnover, retirement age, mortality and medical care costs. Our assumptions reflect historical experience and management's best judgment regarding future obligations. The assumptions used affect the current service cost and interest expense as well as changes in the obligation recognized. Net actuarial gains or losses arising from changes in assumptions and from experience are recognized in other comprehensive income/(loss).

Since defined benefit pension schemes and post-employment benefit schemes are measured on a discounted basis, the discount rate applied has an impact on the expense and obligation recognized. These discount rates are determined by reference to market yields at the end of the reporting period on high quality corporate bonds, except for Sweden where a deep market does not exist, where mortgage bonds are used. Our significant schemes operate in Germany and Sweden, where discount rates of 1.15% and 1.45% have been applied. A 1% increase in discount rates used throughout the Company would decrease the obligation by €51.4 million, whilst a 1% decrease in discount rates would increase the obligation by €68.1 million. The impact on profit before tax in either scenario is not significant. Management consider the discount rate to be the most significant assumption. Note 23 in Item 18 contains additional details on the schemes and obligation, including a sensitivity analysis over other key assumptions.

#### *Uncertain tax positions*

The Company actively seeks to manage tax exposures by proactively engaging with tax authorities and applying for Advanced Pricing Agreements where appropriate. Where tax exposures can be quantified, an accrual for uncertain tax positions is made based on best estimates with regard to the amounts expected to be paid to the relevant tax authority. Given the inherent uncertainties in assessing the outcomes of these exposures (which can sometimes be binary in nature), the Company could in future periods experience adjustments to these accruals. The factors considered include the progress of discussions with the tax authorities and the level of documentary support for historical positions taken by previous owners.

#### **Recently Issued and Not Yet Adopted Accounting Pronouncements under IFRS**

Information relating to "IFRSs not yet adopted" are described in detail and are reported in Note 3 to the Financial Statements.

## A. Operating Results

### Overview of Results

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
<b>Statement of Income data:</b>			
Revenue	2,324.3	2,172.8	1,956.6
Cost of sales	(1,626.4)	(1,519.3)	(1,357.2)
<b>Gross profit</b>	<b>697.9</b>	<b>653.5</b>	<b>599.4</b>
Other operating expenses	(359.9)	(352.7)	(319.3)
Exceptional items	(54.5)	(17.7)	(37.2)
<b>Operating profit</b>	<b>283.5</b>	<b>283.1</b>	<b>242.9</b>
Finance income	2.5	1.6	7.2
Finance costs	(75.7)	(57.6)	(81.6)
<b>Net finance costs</b>	<b>(73.2)</b>	<b>(56.0)</b>	<b>(74.4)</b>
<b>Profit before tax</b>	<b>210.3</b>	<b>227.1</b>	<b>168.5</b>
Taxation	(56.7)	(56.6)	(32.0)
<b>Profit for the period</b>	<b>153.6</b>	<b>170.5</b>	<b>136.5</b>

The table below presents certain additional key performance indicators:

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
(€ in millions, except percentages)	€m	€m	€m
Gross margin <sup>(1)</sup>	30.0%	30.1%	30.6%
Adjusted EBITDA <sup>(2)</sup>	432.0	376.4	328.1
Adjusted EBITDA margin <sup>(3)</sup>	18.6%	17.3%	16.8%

(1) **Gross Margin.** Gross margin represents gross profit as a percentage of revenue for the relevant period.

(2) **Adjusted EBITDA.** EBITDA is profit or loss for the period before taxation, net financing costs, depreciation and amortization. Adjusted EBITDA is EBITDA adjusted to exclude, when they occur, the impacts of exited markets, acquisition purchase price adjustments, chart of account ("CoA") alignments and exceptional items such as restructuring charges, goodwill and intangible asset impairment charges and other unusual or non-recurring items. In addition, we exclude other adjustments such as the impact of share based payment expenses and related employer payroll taxes, and non-operating M&A related costs, because we do not believe they are indicative of our normal operating costs, can vary significantly in amount and frequency, and are unrelated to our underlying operating performance. The Company believes Adjusted EBITDA provides important comparability of underlying operating results, allowing investors and management to assess operating performance on a consistent basis. Accordingly, the information has been disclosed in this annual report to permit a more complete and comprehensive analysis of our operating performance. You should exercise caution in comparing our Adjusted EBITDA with similarly titled measures of other companies, as the definition may not be comparable. Adjusted EBITDA should not be considered as an alternative to profit/(loss) for the period, determined in accordance with IFRS, as an indicator of the Company's operating performance.

(3) **Adjusted EBITDA Margin.** Adjusted EBITDA margin represents Adjusted EBITDA as a percentage of revenue for the relevant period. Adjusted EBITDA and Adjusted EBITDA margin are non-IFRS measures and you should not consider them an alternative or substitute to operating profit or operating margin as a measure of operating performance.

The following table reconciles profit for the period to Adjusted EBITDA for the relevant period as follows:

	Year ended December 31, 2019 €m	Year ended December 31, 2018 €m	Year ended December 31, 2017 €m
<b>Profit for the period</b>	<b>153.6</b>	<b>170.5</b>	<b>136.5</b>
Taxation	56.7	56.6	32.0
Net financing costs	73.2	56.0	74.4
Depreciation and amortization	68.3	46.3	42.4
Acquisition purchase price adjustments	—	5.7	—
Exceptional items (1)	54.5	17.7	37.2
Other add-backs (2)	25.7	23.6	5.6
<b>Adjusted EBITDA</b>	<b>432.0</b>	<b>376.4</b>	<b>328.1</b>

- (1) Elimination of exceptional items which management believes are non-recurring and do not have a continuing impact. Details of what has been identified as exceptional is included in the Results of Operations for each reporting period as set out in this item and in Item 5 of the 2018 Form 20-F.
- (2) Represents the elimination of share-based payment charges and related employer payroll expense of €22.4 million (2018: €14.7 million, 2017: €2.6 million) and elimination of non-operating M&A related costs, professional fees, transaction costs and purchase accounting related valuations of €3.3 million (2018: €8.9 million, 2017: €3.0 million). We exclude these costs because we do not believe they are indicative of our normal operating costs, can vary significantly in amount and frequency, and are unrelated to our underlying operating performance.

### Description of Key Line Items and Certain Key Performance Indicators

Set forth below is a brief description of key items from our consolidated statements of income. For additional information, see Note 3 to our audited consolidated financial statements which appear elsewhere in this annual report.

**Revenue.** Revenue is comprised of sales of goods after deduction of discounts and sales taxes. It does not include sales between Nomad subsidiaries. Discounts given by us include rebates, price reductions and incentives given to customers, promotional couponing and trade communication costs. At each end date of a reporting period, any discount incurred, but not yet invoiced, is estimated and accrued. Revenue is recognized when the risks and rewards of the underlying products have been transferred to the customer. This is usually upon either the dispatch of a shipment or the delivery of goods to the customer but is dependent upon contractual terms that have been agreed with a customer. Sales discounts incurred but not yet invoiced are established based on management's best estimate at the end of the reporting period.

**Cost of Sales.** Cost of Sales are comprised of the cost of the inventories and distribution costs. Cost of inventories includes expenses related to the procurement and purchase of raw materials, as well as conversion costs including labor costs, depreciation of production assets, fuel, electricity, equipment maintenance and inspection.

**Other Operating Expenses.** Other operating expenses are comprised of advertising and promotions and indirect costs. Indirect costs include staff costs, selling and marketing expenses, administration expenses, research and development expenses, amortization of software, amortization of brands and other expenses.

**Exceptional items.** The separate reporting of exceptional items which are presented as exceptional within the relevant income statement category helps provide an indication of our underlying business performance. Exceptional items have been identified and adjusted by virtue of their size, nature or incidence. In determining whether an event or transaction is exceptional, management considers quantitative as well as qualitative factors such as the frequency or predictability of occurrence.

**Finance Income.** Finance income is comprised of interest income, other financing related income and net foreign exchange gains on translations of financial assets and liabilities held in currencies other than the Company's functional currency.

**Finance Costs.** Finance costs are comprised of interest expenses, net interest on net defined pension plan obligations, amortization of borrowing costs, net foreign exchange costs on translations of financial assets and liabilities held in currencies other than the Company's functional currency, financing costs incurred as a result of amendments of debt terms and other financing related costs.

**Taxation.** Taxation is comprised of current tax expenses and deferred tax movements.

**Gross Margin.** Gross margin is gross profit as a percentage of revenue.

We also utilize certain additional key performance indicators, as described below. We believe these measures provide an important alternative measure with which to assess our underlying trading performance on a constant basis. Our calculation of Adjusted EBITDA and Adjusted EBITDA margin may be different from the calculations used by other companies and therefore comparability may be limited. Adjusted EBITDA and Adjusted EBITDA margin are non-IFRS measures and you should not consider them an alternative or substitute to operating profit or operating margin as a measure of operating performance.

**Adjusted EBITDA.** EBITDA is profit or loss for the period before taxation, net financing costs, depreciation and amortization. Adjusted EBITDA is EBITDA adjusted to exclude, when they occur, the impacts of exited markets, acquisition purchase price adjustments, chart of account ("CoA") alignments and exceptional items such as restructuring charges, goodwill and intangible asset impairment charges and other unusual or non-recurring items. In addition, we exclude other adjustments such as the impact of share based payment expenses and related employer payroll taxes, and non-operating M&A related costs, because we do not believe they are indicative of our normal operating costs, can vary significantly in amount and frequency, and are unrelated to our underlying operating performance. The Company believes Adjusted EBITDA provides important comparability of underlying operating results, allowing investors and management to assess operating performance on a consistent basis.

**Adjusted EBITDA Margin.** Adjusted EBITDA margin is Adjusted EBITDA as a percentage of revenue.

## Currency

Our consolidated financial statements have been presented in Euro, which is our functional currency. Unless specifically stated otherwise herein, transactions in foreign currencies have been translated at the foreign exchange rate at the date of the relevant transaction.

Changes in foreign currency rates have a translation impact on our reported operating results.

A significant portion of our operations have functional currencies other than Euro (including Pound Sterling, Norwegian Krone and Swedish Krona). In preparing our financial statements, translations in currencies other than our functional currency are recognized at the rates of exchange prevailing at the dates of transaction. Accordingly, our results for each of the periods presented below have been impacted by fluctuations in foreign exchange rates. Where material, the impact of translation of currency on results has been provided. For a discussion on strategies to mitigate the effect of these fluctuations see Note 33 "Financial risk management" to our consolidated financial statements which appear elsewhere in this annual report.

## Results of Operations for the Year Ended December 31, 2019 and the Year Ended December 31, 2018

	Year ended December 31, 2019	Year ended December 31, 2018
	€m	€m
<b>Statement of Income data:</b>		
Revenue	2,324.3	2,172.8
Cost of sales	(1,626.4)	(1,519.3)
<b>Gross profit</b>	<b>697.9</b>	<b>653.5</b>
Other operating expenses	(359.9)	(352.7)
Exceptional items	(54.5)	(17.7)
<b>Operating profit</b>	<b>283.5</b>	<b>283.1</b>
Finance income	2.5	1.6
Finance costs	(75.7)	(57.6)
<b>Net finance costs</b>	<b>(73.2)</b>	<b>(56.0)</b>
<b>Profit before tax</b>	<b>210.3</b>	<b>227.1</b>
Taxation	(56.7)	(56.6)
<b>Profit for the period</b>	<b>153.6</b>	<b>170.5</b>

Revenue for the year ended December 31, 2019 was €2,324.3 million (year ended December 31, 2018: €2,172.8 million). The 7.0% revenue increase was driven by organic growth on the base business of 2.1% and an increase in revenue from the acquired businesses of 4.9%.

Gross profit, defined as revenue less cost of sales, increased €44.4 million to €697.9 million for the year ended December 31, 2019 from €653.5 million for the year ended December 31, 2018. The adoption of IFRS 16 *Leases* on January 1, 2019, has not had a material impact on gross profit for the year ended December 31, 2019. The increase in gross profit was driven by the increase in revenue partly offset by a change in gross margin. Gross Margin, defined as gross profit as a percentage of revenue, fell by 10 basis points to 30.0% from 30.1% in the year ended December 31, 2018 primarily due to:

- A 20 basis points increase relating to the non-cash fair value uplift of inventory in 2018, recorded as part of the Goodfella's Pizza and Aunt Bessie's purchase price accounting.
- Acquisition mix of 50 basis points decrease due primarily to the acquired businesses product mix margin profile being lower.
- A 330 basis points benefit from pricing, promotional efficiencies and mix;
- A 310 basis points decrease due to cost of goods inflation.

Other operating expenses increased to €359.9 million for the year ended December 31, 2019 (year ended December 31, 2018: €352.7 million). The increase of €7.2 million was driven by higher share-based payment expenses and associated employer payroll tax expense, and the annualized impact from acquired businesses' expenses. The adoption of IFRS 16 *Leases* on January 1, 2019, has not had a material impact on gross profit for the year ended December 31, 2019.

Exceptional items of €54.5 million were incurred in the year ended December 31, 2019 (year ended December 31, 2018: €17.7 million). Included in this charge are (i) a charge of €44.0 million from the release of indemnification assets, (ii) costs of integrating the Goodfella's pizza business and Aunt Bessie's business of €12.5 million (year ended December 31, 2018: €8.3 million), (iii) expenses for the Findus Group integration which relates to the roll-out of the Nomad ERP system of €3.5 million (year ended December 31, 2018: €10.4 million), (iv) expenses of €5.7 million relating to a three-year factory optimization program which was initiated in 2018 (year ended December 31, 2018: €1.6 million), and (v) expenses related to preparations for the potential adverse impacts of the United Kingdom exiting the European Union ("Brexit") of €1.6 million.

Offsetting these charges are a net income on settlement of legacy matters relating to periods prior to acquisition of the Findus and Iglo businesses of €9.2 million (year ended December 31, 2018: income of €3.8 million), as well as income associated with supply chain reconfiguration, relating to restructuring activities in Sweden of €3.6 million (year ended December 31, 2018: net expense of €1.2 million).

Net finance costs of €73.2 million in the year ended December 31, 2019 (year ended December 31, 2018: €56.0 million) include €57.2 million of interest payable on long term borrowings, lease liabilities and other cash pay interest expenses net of hedges ( year ended December 31, 2018: €49.8 million), losses on derivatives designated as fair value through profit and loss of €8.8 million (year ended December 31, 2018: gain of €1.4 million), €3.8 million of other interest and finance costs ( year ended December 31, 2018: €4.9 million), €2.0 million of amortization of capitalized borrowing costs (year ended December 31, 2018: €1.5 million) and a loss of €3.9 million resulting from the translation of foreign currency-denominated financial assets and liabilities into Euros (year ended December 31, 2018: €0.3 million). This is offset by finance income of €2.5 million (year ended December 31, 2018: €0.2 million).

The adoption of IFRS 16 *Leases* on January 1, 2019, has resulted in a €4.6 million increase to interest payable for the year ended December 31, 2019.

There was a tax charge in the year ended December 31, 2019 of €56.7 million based on the underlying taxable profits. A taxation charge of €56.6 million was booked in the year ended December 31, 2018. This difference is principally caused by higher tax rates applied to profits in other jurisdictions, by greater non-deductible expenses, and by a reduction in the use of certain tax losses, offset by lower profits.

As noted in Item 3.D. Risk Factors, the future performance of the business is affected by a range of governmental economic, fiscal, monetary and political factors. In particular, the outcome of Brexit negotiations could have a material impact on the future results of the business.

## **B. Liquidity and Capital Resources**

### *Overview*

We believe that cash flow from operating activities, available cash and cash equivalents and our access to our revolving credit facility will be sufficient to fund our liquidity and other requirements for at least the next 12 months. At December 31, 2019, we had €887.6 million of total liquidity, comprising €826.1 million in cash and €62.8 million of available borrowings under our revolving credit facility, offset by bank overdrafts of €1.3 million. We also expect to continue to raise cash through equity and debt offerings to support the strategic aims of the Company when it is advisable to do so and market conditions allow. In addition, we may enter into working capital related facilities including receivables financing, reverse factoring and supply chain financing to support the requirements of the business. Our principal liquidity requirements are for working capital and general corporate purposes, including capital expenditures and debt service, as well as to identify and effect strategic acquisitions.

As a holding company, we depend on our receipt of cash dividends from our operating subsidiaries. For more information, see Item 3D: Key Information - Risk Factors - We are a holding company whose principal source of operating cash is the income received from our subsidiaries.

### *Restricted Cash*

Nomad had cash and cash equivalents of €826.1 million at December 31, 2019, of which €0.1 million was restricted. This compares with cash and cash equivalents of €327.6 million at December 31, 2018 of which €0.1 million was restricted. Cash may be restricted for reasons including, but not limited to collateral as support for issuance of guarantees, or funds held in escrow accounts.

### *Cash Flows*

Our primary sources of liquidity for the periods reported were cash flow from operations and financing activities. Cash flows from financing activities have in the past included, among other things, borrowings under credit facilities, high yield notes and shareholder loan notes. Our liquidity requirements arise primarily from the need to meet debt service requirements, to fund capital expenditures, to meet working capital requirements and to fund pension and tax obligations. Cash flows generated from operating activities together with cash flows generated from financing activities, have historically been sufficient to meet our liquidity needs.

indicated: The following table summarizes net cash flows with respect to our operating, investing and financing activities for the periods

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
Net cash provided by operating activities	315.4	321.3	193.8
Net cash used in investing activities	(73.8)	(513.2)	(42.6)
Net cash provided by/(used in) financing activities	251.4	302.7	(241.8)
<b>Net increase/(decrease) in cash and cash equivalents</b>	<b>493.0</b>	<b>110.8</b>	<b>(90.6)</b>
Cash and cash equivalents at end of the period	824.8	327.6	219.2

#### *Net Cash Provided by Operating Activities*

Net cash provided by operating activities was €315.4 million for the year ended December 31, 2019, down from €321.3 million for the year ended December 31, 2018. Due to the adoption of IFRS 16 Leases on January 1, 2019, the payment of lease liabilities of €21.8 million are now classified within financing activities. The €5.9 million decrease was also the result of a decrease in cash flows related to exceptional items of €15.9 million compared to €43.4 million in the year ended December 31, 2018, offset by a €51.0 million decrease from the reversal of factoring of trade receivables, as well as cash flows relating to tax of €45.6 million compared to €32.9 million in the year ended December 31, 2018.

#### *Net Cash Used in Investing Activities*

Net cash used in investing activities was €73.8 million for the year ended December 31, 2019, compared to net cash used in investing activities of €513.2 million for the year ended December 31, 2018. The outflow in the year ended December 31, 2019 included the purchase of short-term investments of €25.0 million and capital expenditures. The net cash used in investing activities of €513.2 million for the year ended December 31, 2018, included payments totaling €471.6 million for acquisitions and €41.6 million of capital expenditures.

#### *Net Cash Provided by Financing Activities*

Net cash provided by financing activities was €251.4 million for the year ended December 31, 2019, compared to net cash provided by financing activities of €302.7 million for the year ended December 31, 2018. The inflow in the year ended December 31, 2019 relates primarily to the receipt of €354.1 million from the issuance of ordinary shares, offset in part by share issuance costs of €11.1 million, a repayment of €22.2 million of debt as well as cash outflows of €21.8 million for the payment of lease liabilities which were previously classified within operating cash flows. The net cash provided by financing activities of €302.7 million for the year ended December 31, 2018, related primarily to proceeds of €355.6 million from new loans and borrowings offset by interest payments.

#### *Capital Expenditures*

Our capital expenditures as of December 31, 2019 consisted, and in 2020 we expect to consist of, primarily expenditures for factory capacity expansion and maintenance, cost savings projects, information systems, innovation, regulatory compliance and other items. The anticipated source of such funds for such capital expenditures are cash flow from operating activities, available cash and cash equivalents and our revolving credit facility.

The following table sets forth our capital expenditures for the periods indicated, including as a percentage of revenue:

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
Capital expenditures	47.3	41.6	42.6
Capital expenditure as a % of revenue	2.0%	1.9%	2.2%

#### *Trade Receivables - Factoring*

To assist in managing operating cash flow, we have entered into non-recourse factoring arrangements whereby we may sell specific account receivables on a true sale basis to one or more external financial institutions. Under the terms of such arrangements, the Company may continue to collect the cash from the customer receivables sold, albeit acting solely as a collecting agent on behalf of the purchaser of receivables. The Company retains no credit loss exposure to the receivables following sale. Factoring fees associated with the sale of factored receivables for the year ended December 31, 2019 were minimal (2018: €0.5 million, 2017: €nil). No receivables were factored at the end of December 31, 2019 (2018: €51 million), due to sufficient liquidity resources available to the Company. However, such facilities may continue to be drawn in future periods for strategic purposes.

#### *Registration Statement*

On June 4, 2018, we filed with the SEC an automatic shelf registration statement for well-known seasoned issuers on Form F-3ASR. This registration statement enables us to issue ordinary shares, preferred shares, debt securities or warrants, either separately or as units that include any of these securities. Under the rules governing automatic shelf registration statements, we will file a prospectus supplement and advise the SEC of the amount and type of securities each time we issue securities under this registration statement. On March 22, 2019, we issued 20,000,000 ordinary shares under this registration statement at \$20.00 per share for aggregate gross proceeds of \$400.0 million (€353.6 million).

#### *Funding and treasury policies*

The Company uses centralized financial management to oversee access to financial markets, monitor and manage financial risks, and control liquid assets. This process is conducted according to a policy that applies to all group entities. All financial risk management strategies employed are for the purposes of risk mitigation and not for speculation.

The primary objective of our capital structure management is to maintain a strong financial profile for investor, creditor and customer confidence, and to support the growth of our business. We believe that the liquid assets of the Company, together with undrawn credit facilities and projections for future cash flows from operations, are sufficient to support the Company strategy. Access to external financing markets will be considered if funds are required other than from free cash flow (e.g. supporting acquisitions) to support the viability and growth of the business.

#### *Debt*

##### *Senior Facilities Agreement*

We maintain a syndicated senior facilities agreement with certain finance parties and lenders, originally dated July 3, 2014, as subsequently amended and restated on October 23, 2015, April 28, 2017, December 20, 2017 and June 15, 2018 (the "Senior Facilities Agreement"). Credit Suisse AG, London Branch, is currently both the agent and the security agent.

The Senior Facilities Agreement governs our term loan facilities and our revolving credit facility.

## *Term Loan Facilities*

### U.S. Dollar Denominated Term Loan Facility

The U.S. Dollar (USD) denominated term loan facility consists of term loans in an aggregate principal amount of \$935.6 million. The USD denominated term loans bear interest at a rate per annum equal to LIBOR (subject to a zero floor) plus 2.25% per annum. As of December 31, 2019, the amount outstanding under the USD denominated term loan facility was accruing interest at a rate of 3.99% per annum.

### Euro Denominated Term Loan Facility

The Euro (EUR) denominated term loan facility consists of term loans in an aggregate principal amount of €553.2 million. The EUR denominated term loans bear interest at a rate per annum equal to EURIBOR (subject to a zero floor) plus 2.75% per annum. As of December 31, 2019, the amount outstanding under the EUR denominated term loan facility was accruing interest at a rate of 2.75% per annum.

Both the USD denominated term loan facility and the EUR denominated term loan facility are fully drawn and mature on May 15, 2024.

### Revolving Credit Facility

The Senior Facilities Agreement provides for an €80.0 million revolving credit facility, of which up to €50 million can be used for the issuance of letters of credit and other ancillary facilities. The revolving credit facility matures on May 15, 2023 and bears interest at a rate per annum equal to LIBOR or, in relation to any loan in Euro, EURIBOR (subject in each case to a zero floor), plus the applicable margin. The applicable margin is 2.75% per annum. Interest on the revolving credit facility is payable at the end of each interest period. As of December 31, 2019, the amount outstanding under the revolving credit facility by way of issued letters of credit and bank guarantees was €17.2 million.

### *Indebtedness at December 31, 2019*

As of December 31, 2019, we had approximately €1,787.9 million (December 31, 2018: €1,394.5 million) of indebtedness outstanding under our term loan facilities and no amounts outstanding under our revolving credit facility, other than €17.2 million (December 31, 2018: €16.8 million) in relation to stand-by letters of credit and bank guarantees.

### *Terms of the Senior Facilities Agreement*

The Senior Facilities Agreement contains certain customary operating covenants (certain of which are not applicable depending on the ratio of Consolidated Total Net Debt to Consolidated EBITDA) and other customary provisions relating to events of default, including non-payment of principal, interest or fees, misrepresentations, breach of covenants, creditor process, cross default to other indebtedness of the borrowers and its subsidiaries. If, in respect of any Relevant Period, the aggregate amount of: (i) all Revolving Facility Loans; (ii) drawn Letters of Credit; and (iii) Ancillary Outstanding's (but excluding Ancillary Outstanding's by way of undrawn letters of credit and undrawn bank guarantees under the relevant Ancillary Facility) calculated as at the last day of each such Relevant Period, is equal to or exceeds 40% of the Total Revolving Facility Commitments as at such date, Debt Cover in respect of that Relevant Period shall not exceed 8.00:1. (Each of the foregoing terms is defined in the Senior Facilities Agreement). As of December 31, 2019, we were in compliance with all financial and other covenants contained in our Senior Facilities Agreement.

The USD denominated term loans include the requirement to repay 1% of notional per annum. In addition to the mandatory 1% per annum amortization, the Senior Facilities Agreement also includes an excess cashflow calculation whereupon an amount of principal shall be repaid based upon terms including cash generated during the year and Company leverage.

### *Hedging*

In order to mitigate underlying foreign exchange exposure, reduce overall interest charge, and mitigate interest rate risk, the Company has entered into a number of cross-currency interest rate swaps. In exchange for receiving cash flows in USD matching all of the payments of principal and interest due under the Senior USD debt, the Company pays fixed amounts of interest and principal on notional amounts of GBP and EUR. All USD to EUR swaps have been designated as a cash flow hedge whilst the majority of EUR to GBP swaps have been designated as a net investment hedge of the UK business.

As a result of decisions taken by national regulators, LIBOR and EURIBOR may become phased out and replaced by an alternative reference index. If LIBOR or EURIBOR ceases to exist, we may need to renegotiate our Senior Facilities Agreement with our lenders and associated cross currency interest rate swaps. Our expectation is that both debt agreements and hedging contracts will be aligned to the new benchmarks as they become known, and as such it is highly probable that the existing hedging relationships can be continued.

### *Fixed Rate Senior Secured Notes due 2024*

On May 3, 2017, we entered into an indenture with Nomad Foods Bondco Plc and Deutsche Trustee Company Limited as trustee, pursuant to which we issued €400.0 million of 3.25% Fixed Rate Senior Secured Notes due May 15, 2024, payable semi-annually in arrears. The Fixed Rate Senior Secured Notes are currently admitted to the Official List of the Luxembourg Stock Exchange and for trading on the Euro MTF Market. As of December 31, 2019, we had €400.0 million of Fixed Rate Senior Secured Notes outstanding.

The indenture contains customary events of default and customary covenants including limitations on indebtedness, restricted payments, liens, restrictions on distributions from restricted subsidiaries, sales of assets and subsidiary stock, affiliate transactions, our activities, such as merger, conveyance, transfer or lease of all or substantially all of our assets, and compliance requirements with respect to additional guarantees, reporting, additional intercreditor agreements, payment of notes, withholding taxes, change of control, compliance certificate, payments for consent and listing requirements. The Fixed Rate Senior Secured Notes are redeemable at our option in whole or in part on the terms detailed in the indenture.

### *Intercreditor Agreement*

The finance parties under the Senior Facilities Agreement and the holders of the Fixed Rate Senior Secured Notes share the benefit of a security and guarantee package. The rights and obligations of the senior creditors and other creditors (including intra group creditors) between themselves is controlled by an Intercreditor Agreement originally dated June 3, 2014, as subsequently amended and restated on April 28, 2017.

### *Pension Plans*

We maintain defined benefit pension plans in Germany, Sweden, Italy and Austria as well as various defined contribution plans in other countries. The defined benefit pension plans are partially funded in Germany and Austria and unfunded in Sweden and Italy. All defined benefit pension plans are closed to new entrants and there is no current requirement to fund the deficit in any plan. We also maintain various defined contribution pension plans in other countries, the largest of which include Sweden and the UK. In most countries, long term service awards are in operation.

For accounting purposes, as of December 31, 2019 (based on the assumptions used), the deficit for the net employee benefit obligations equaled €237.5 million (December 31, 2018: €200.6 million).

For the year ended December 31, 2019 pension costs related to defined benefit, defined contributions and long-term benefit plans equated to €16.8 million (2018: €16.9 million; 2017: €18.2 million). This includes all costs related to the pension schemes and other long-term benefits plans as well as associated interest costs.

For additional information, see Note 23 "Employee benefits" to our consolidated financial statements in Item 18.

A description of our principal accounting policies, critical accounting estimates and judgments is set out in Note 3 and Note 4 to our audited consolidated statements which appear elsewhere in this annual report.

### C. Research and development, patents and licenses, etc.

We focus our efforts on renovation of core products and our investment in market research on ensuring that the products we launch overcome penetration barriers. In addition, we operate a structured stage gate process through which we take new products from idea generation, through concept screening, concept/products laboratories and early volume sizing, to final validation.

Since 2017 we have operated a dual governance process with a "Central Monthly Operating Review Board" ("CMOR") which is responsible for reviewing and approving innovations across the Company in our core areas that stretch across multiple markets. "Local Monthly Operating Reviews" ("LMOR") occur within each market on areas within local control. Our research and development team has global and local teams. This allows us to leverage our investment in research development across our markets where scale can be achieved and move fast within individual markets to address local tastes, thus maximizing our ability to generate successful innovations efficiently.

### D. Trend information

We are subject to the following key industry trends and challenges which have impacted, and may continue to impact, our business, operations and financial performance:

1. *Consumer Preferences.* Consumer preferences drive demand for our products. There are a number of trends in consumer preferences which are having an impact on us and the frozen food industry as a whole. These include preferences for speed, convenience and ease of food preparation; natural, nutritious and well-proportioned meals; and products that are sustainably sourced and produced and are otherwise environmentally friendly. Our results of operation depend in large part on the continued appeal of our products and, given the varying backgrounds and tastes of our customer base, our ability to offer a sufficient range of products to satisfy a broad spectrum of preferences. For example, there is a growing trend towards greater consumption of vegetarian and vegan foods, especially by meat eaters, which resulted in 40% of households in the UK purchasing meat substitutes in 2019. In order to address consumer needs and ensure the continued success of our products, we aim to introduce new products, renovate core products and extend existing product lines on a timely basis.
2. *Competition.* In addition to the competition we face from traditional, well-established branded frozen food manufacturers, over the last few years we have seen increased competition from the discounter channel. Discounters are supermarket retailers which offer food and grocery products at discounted prices and which typically focus on non-branded rather than branded products. The discounter channel has been growing at a faster rate than the traditional retailer channels over the last several years. To address this growing trend, we continue to pursue opportunities to increase our presence with the discounter channel, particularly the hard discounter channel. With the growth of the discounter channel, in an effort to compete, our traditional retail customers have increased their offering of their own private label products. Because these customers control the shelf space allocations within their stores, they may allocate more shelf space to their private label products in accordance with their respective promotional strategies. To address decreases in shelf space allocated to our products, we have expanded our focus on "category management projects". We have been chosen to lead category management projects by several retailers and provide objective advice regarding the strategic development of our food categories. As we increase our influence with retailers, we expect this will translate into an increased share of shelf space and provide more favorable positioning of our products relative to the competition.

3. *Shopping Habits.* The online grocery retail channel is growing faster than traditional grocery retail formats across developed markets. Consumers with increasingly busy lifestyles are choosing the online grocery channel as a more convenient and faster way of purchasing their food products, and are also increasingly using the internet for meal ideas. Frozen foods particularly benefit from the online channel as the advantages to the consumer of outsourcing transportation of frozen food to the retailer are greater than in other categories, and also because some of the barriers to purchasing in-store (e.g. colder aisles) are removed for the consumer online. We are responding to the growing consumer shift to digital and mobile technologies, particularly in the UK, by investing in technology platforms and partnering with retailers that are executing their own e-commerce strategies to meet changing consumer habits.

#### E. Off-balance sheet arrangements

We did not have any material off-balance sheet arrangements during the reported periods.

#### F. Tabular disclosure of contractual obligations

The following table summarizes our estimated material contractual cash obligations and commercial commitments as of December 31, 2019, and the future periods in which such obligations are expected to be settled in cash:

(€ in millions)	Cash payments due by period				
	Total	Less than 1 year	1-3 years	3-5 years	After 5 years
Long term debt	1,791.0	10.8	18.2	1,762.0	—
Long term debt—interest (1)	264.4	61.1	119.2	84.1	—
Cross currency interest rate swap payments (2)	1,215.8	38.8	1,177.0	—	—
Cross currency interest rate swap receipts (2)	(1,233.6)	(49.4)	(1,184.2)	—	—
Forward contracts - Sell (2)	666.2	666.2	—	—	—
Forward contracts - Buy (2)	(658.5)	(658.5)	—	—	—
Lease liabilities and operating leases (3)	153.1	18.9	32.1	16.4	85.7
Purchase commitments (4)	246.0	207.1	33.6	4.9	0.4
<b>Total (5)</b>	<b>2,444.4</b>	<b>295.0</b>	<b>195.9</b>	<b>1,867.4</b>	<b>86.1</b>

- (1) Represents estimates of future interest payable, which will depend upon the timing of cash flows as well as fluctuations in the applicable interest rates and the Company's debt structure. These forecasts have been compiled using the debt structure as at December 31, 2019 with constant foreign exchange and interest rates until the debt matures in 2024.
- (2) Cross currency interest rate swap payments and forward contracts are presented alongside receipts to show the net liability.
- (3) Excludes contractual annual increases linked to inflation indices.
- (4) Represents capital and raw material expenditures as well as long term service contracts which we have committed to make but which are not yet payable.
- (5) Retirement benefit obligations of €237.5 million are not presented above as the timing of the settlement of these obligations is uncertain. Certain long-term liabilities related to income taxes, insurance accruals, other accruals and provisions included on the consolidated balance sheet are excluded from the above table as we are unable to estimate the timing of payments for these items.

#### G. Safe harbor

See the section entitled "*Cautionary Statement Regarding Forward-Looking Statements*" at the beginning of this annual report.

## Item 6. Directors, Senior Management and Employees

### A. Executive Officers and Directors

The following table lists each of our executive officers and directors and their respective ages and positions as of February 21, 2020.

Name	Director since	Age	Position
Sir Martin E. Franklin	April 4, 2014	55	Co-Chairman
Noam Gottesman	April 4, 2014	58	Co-Chairman
Ian G.H. Ashken	June 16, 2016	59	Director
Stéfan Descheemaeker	June 1, 2015	59	Chief Executive Officer and Director
Jeremy Isaacs CBE	February 16, 2016	55	Director
James E. Lillie	May 28, 2015	58	Director
Stuart MacFarlane	May 8, 2019	52	Director
Lord Myners of Truro CBE	April 4, 2014	71	Lead Independent Director
Victoria Parry	February 16, 2016	54	Director
Simon White	November 30, 2016	61	Director
Samy Zekhout	April 1, 2018	57	Chief Financial Officer and Director

Set forth below is a brief biography of each of our executive officers and directors.

**Sir Martin Ellis Franklin, KGCN**, our co-founder and co-Chairman is the founder and CEO of Mariposa Capital LLC, a Miami-based family investment firm focused on long-term value creation across various industries, and Chairman and controlling shareholder of Royal Oak Enterprises, LLC. Sir Franklin is also the Founder and Executive Chairman of Element Solutions Inc (previously known as Platform Specialty Products Corporation), and co-founder and co-Chairman of API Group Corporation (previously known as J2 Acquisition Limited). Sir Franklin was the co-founder and Chairman of Jarden Corporation ("Jarden") from 2001 until April 2016 when Jarden merged with Newell Brands Inc ("Newell"). Sir Franklin became Chairman and Chief Executive Officer of Jarden in 2001, and served as Chairman and Chief Executive Officer until 2011, at which time he began service as Executive Chairman. Prior to founding Jarden in 2001, Sir Franklin served as the Chairman and/or Chief Executive Officer of three public companies: Benson Eyecare Corporation, Lumen Technologies, Inc., and Bollé Inc. between 1992 and 2000. In the last five years, Sir Franklin served as a director of the following public companies: Newell Brands, Inc., Restaurant Brands International Inc. and Burger King Worldwide, Inc. (until its transaction with Tim Hortons, Inc. and the creation of Restaurant Brands International Inc. in December 2014).

**Noam Gottesman**, our co-founder and co-Chairman is the Founder and Managing Partner of TOMS Capital LLC, which he founded in 2012. Mr. Gottesman is also a co-founder and non-executive director of Digital Landscape Group, Inc. (previously known as Landscape Acquisition Holdings Limited), a global aggregator of real property interests underlying wireless telecommunications cell sites. Mr. Gottesman was the co-founder of GLG Partners Inc. and its predecessor entities where he served in various chief executive capacities until January 2012. Mr. Gottesman served as GLG's chief executive officer from September 2000 until September 2005, and then as its co-chief executive officer from September 2005 until January 2012. Mr. Gottesman was also chairman of the board of GLG following its merger with Freedom Acquisition Holdings Inc. and prior to its acquisition by Man Group plc. Mr. Gottesman co-founded GLG as a division of Lehman Brothers International (Europe) in 1995 where he was a Managing Director. Prior to 1995, Mr. Gottesman was an executive director of Goldman Sachs International, where he managed global equity portfolios in the private client group.

**Ian G.H. Ashken** serves as a director of API Group Corporation and Element Solutions Inc. Previously, he was the co-founder of Jarden and served as its Vice Chairman and President until the consummation of Jarden's business combination with Newell in April 2016. Mr. Ashken was appointed to the Jarden board on June 25, 2001 and served as Vice Chairman, Chief Financial Officer and Secretary from September 24, 2001. Mr. Ashken was Secretary of Jarden until February 15, 2007 and Chief Financial Officer until June 12, 2014. Prior to Jarden, Mr. Ashken served as the Vice Chairman and/or Chief Financial Officer of three public companies, Benson Eyecare Corporation, Lumen Technologies, Inc. and Bollé Inc. between 1992 and 2000. Mr. Ashken is also a director or trustee of a number of private companies and charitable institutions. During the last five years, Mr. Ashken also previously served as a director of Newell Brands, Inc.

**Stéfan Descheemaeker** was appointed as the Chief Executive Officer of the Company on June 1, 2015. He was previously at Delhaize Group SA, the international food retailer, where he was Chief Financial Officer between 2008 and 2011 before becoming Chief Executive Officer of its European division until October 2013. Since leaving Delhaize Group SA, Mr. Descheemaeker held board positions with Telenet Group Holdings N.V. and Group Psychologies, served as an industry advisor to Bain Capital and is currently a professor at the Université Libre de Bruxelles. Between 1996 and 2008, Mr. Descheemaeker was at Interbrew (now Anheuser-Busch InBev) where he was Head of Strategy & External Growth responsible for managing M&A and strategy, during the time of the merger of Interbrew and AmBev in 2004, and prior to that he held operational management roles as Zone President in the U.S., Central and Eastern Europe, and Western Europe. Mr. Descheemaeker started his career with Cobepa, at that time the Benelux investment company of BNP-Paribas. Mr. Descheemaeker served as a Director on the Board of Anheuser-Busch InBev, a position he has held from 2008 to 2019. Since June 2019, Mr. Descheemaeker has served as Chairman of the Board of Verlinvest.

**Jeremy Isaacs** is a Founding Partner of JRJ Group. At JRJ Group, Mr. Isaacs is closely involved with the implementation and guidance of fund strategy, as well as the development and execution of portfolio company strategy. Prior to establishing JRJ Group, in late 2008, Mr. Isaacs held senior executive positions with Lehman Brothers with responsibility for businesses outside North America. Mr. Isaacs serves as a non-executive director of Marex Spectron and served as a non-executive director of Landscape Acquisition Holdings Limited from November 2017 until its business combination with Associated in February 2020. He participates in numerous philanthropic activities, holding a range of positions, including Trustee of The J Isaacs Charitable Trust, and Trustee of the Noah's Ark Children's Hospice. Mr. Isaacs is an Honorary Fellow of the London Business School. He served as non-executive director of Imperial College Healthcare NHS Trust from October 2013 to September 2016, and was a member of the British Olympic Advisory Board between 2007 and 2012 and a member of the Bridges Development Fund Advisory Board between 2008 and March 2018. Mr. Isaacs was appointed Commander of the Order of the British Empire (CBE) in the 2015 Queen's Birthday Honours for his services to the NHS. In May 2019, Mr. Isaacs received Doctor of Philosophy Honoris Causa from the Haifa University, Israel.

**James E. Lillie** serves as co-Chairman of API Group Corporation since October 2019, and previously served as its director from October 2017. Mr. Lillie has also served on the board of directors of Tiffany & Co. since February 2017. He served as Jarden's Chief Executive Officer from June 2011 until the consummation of Jarden's business combination with Newell in April 2016. He joined Jarden in 2003 as Chief Operating Officer and was named President in 2004 and CEO in June 2011. From 2000 to 2003, Mr. Lillie served as Executive Vice President of Operations at Moore Corporation, Limited. From 1999 to 2000, he served as Executive Vice President of Operations at Walter Industries, Inc., a Kohlberg, Kravis, Roberts & Company (KKR) portfolio company. From 1990 to 1999, Mr. Lillie held a succession of senior level management positions across a variety of disciplines including human resources, manufacturing, finance and operations at World Color, Inc., another KKR portfolio company.

**Stuart MacFarlane** joined the Whitbread Beer Company in 1992, which was later acquired by Interbrew and, subsequently, Anheuser-Busch InBev ("ABInBev"). At ABInBev, Mr. MacFarlane held various senior roles throughout the course of his career, including in Finance, Marketing, Sales and as Managing Director for the company's business in Ireland. He was appointed President of ABInBev UK & Ireland in 2008 and in 2012 became a member of the Executive Board of Management, serving as President of Central & Eastern Europe. Mr. MacFarlane most recently served as ABInBev's President of a combined Europe & Middle East from 2014 to May 2019. Mr. MacFarlane is currently serving as a director and member of the Corporate Governance Committee of Anadolu EFES, a brewer company, until May 28, 2019. He previously served as a director of ABI-EFES Russia & Ukraine, a joint venture of Anadolu EFES and ABInBev. Mr. MacFarlane has a degree in Business Studies from Sheffield University in the UK and is also a qualified Chartered Management Accountant.

**Lord Myners** is Chancellor of the University of Exeter and a member of Court and Council of the London School of Economics and Political Science. He served as the Financial Services Secretary in Her Majesty's Treasury, the United Kingdom's finance ministry, from October 2008 to May 2010. Prior to his service at the Treasury, Lord Myners served as chairman or a member of the board of several organizations, including as chairman of Guardian Media Group from 2000 to 2008, director of GLG Partners Inc. from 2007 to 2008, Director of Land Securities Group plc from 2006 to 2008 (chairman from 2007 to 2008), chairman of Marks & Spencer plc from 2004 to 2006, and chairman of Aspen Insurance Holdings Ltd from 2002 to 2007. Lord Myners served as chairman of Platform Acquisition Holdings Limited (now known as Element Solutions Inc) from April 2013 until its business combination with MacDermid, Incorporated in October 2013. He also served as the chairman of Landscapes Acquisition Holdings Limited from November 2017 until its business combination with Associated in February 2020 and of Justice Holdings

Limited, a special purpose acquisition company, from February 2011 until its business combination with Burger King Worldwide, Inc. in June 2012. From 1986 to 2001, he served as a director of Gartmore Investment Management Limited. He has also served in an advisory capacity to the United Kingdom Treasury and the United Kingdom Department of Trade & Industry, with particular focus on corporate governance practices. Other positions held by Lord Myners have included chairman of the Trustees of Tate, chairman of the Low Pay Commission, a member of the Court of the Bank of England, a member of the Investment Board of GIC, Singapore's sovereign wealth fund. Lord Myners is currently serving as a non-executive director of Windmill Hill Asset Management. He is vice chairman of Global Counsel, chairman and a partner of Cevian Capital LLP and Chairman of Daniel J Edelman (UK). Lord Myners is a graduate, with honors, from University of London and has an honorary doctorate from the University of Exeter. He is a Visiting Fellow at Nuffield College, Oxford and an Executive Fellow at London Business School. He is a crossbench member of the UK's House of Lords, the senior chamber in Parliament.

**Victoria Parry** was Global Head of Product Legal for Man Group plc until April 2013 and now acts as an independent non-executive director to the funds industry. Prior to the merger of Man Group plc with GLG Partners, Inc. in 2010, she was Senior Legal Counsel for GLG Partners LP. Ms. Parry joined Lehman Brothers International (Europe) in April 1996 where she was Legal Counsel with responsibility for inter alia the activities of the GLG Partners division and left Lehman Brothers in September 2000 upon the establishment of GLG Partners LP. Prior to joining Lehman Brothers in 1996 Ms. Parry practiced as a solicitor with a leading London based firm of solicitors. Ms. Parry graduated from University College Cardiff, with a LLB (Hons) in 1986. Ms. Parry is a solicitor and a member of the Law Society of England and Wales. Ms. Parry is a director of a number of other companies.

**Simon White** was, until 2014, Chief Operating Officer of Man Group PLC where he was a member of the Executive Committee. Prior to the merger of Man Group PLC with GLG Partners, Inc. in 2010, Mr. White served as Chief Operating Officer of GLG Partners, Inc. from its inception and was also Chief Financial Officer until mid-2008. From 1993 to 2000 he worked at Lehman Brothers in a number of different roles. Since 2014, Mr. White has been involved in leadership roles in a range of early stage businesses with a special focus on FinTech, and is currently a director of Smike Consulting Limited, formed in September 2019. In 2017, he became a non-executive director of Ask Inclusive Finance and has previously served as a non-executive director of Bridge Invest Limited and Axim Holdings Limited. In February 2020, he became a non-executive director of DMS Investment Management Services (UK) Limited. Mr. White is a Fellow of the Institute of Chartered Accountants in England and Wales.

**Samy Zekhout** has served as Chief Financial Officer of Nomad since April 1, 2018. Prior to joining the Company, Mr. Zekhout most recently served as CFO and Vice President of Global Grooming at Procter & Gamble since 2007. Mr. Zekhout has held various finance roles at Procter & Gamble throughout the course of his more than 30 year career at that company.

## **B. Compensation of Executive Officers and Directors**

This section sets forth for the year ended December 31, 2019: (i) the compensation and benefits provided to our executive officers, (ii) a brief description of the bonus programs in which our executive officers participated, and (iii) the total amounts set aside for pension, retirement and similar benefits for our executive officers. This section also describes the Nomad Foods Amended and Restated Long Term 2015 Incentive Plan ("LTIP") including a summary of the material terms of the LTIP, a description of current executive employment agreements and equity awards granted thereunder, and a description of our director compensation program.

### **Executive Compensation**

#### *Executive Officer Compensation and Benefits for the year ended December 31, 2019*

For the year ended December 31, 2019, Nomad's executive officers received total compensation, including base salary, cash and equity bonus, and certain perquisites, equal to €9.7 million in the aggregate.

#### *Pension, Retirement and Similar Benefits*

Our executive officers who participate in our money purchase pension plans do so on generally the same terms as our other employees. The aggregate amount of the employer contributions to this plan for our executive officers during the year ended December 31, 2019 was less than €0.1 million.

## Employment Agreements

Chief Executive Officer. Stéfan Descheemaeker was appointed as the Chief Executive Officer of the Company and as a Director of the Company effective on June 1, 2015. He entered into his Service Agreement with us on June 17, 2015. Under the agreement, Mr. Descheemaeker will receive an annual salary of £700,000 that will be reviewed, but not necessarily increased, on an annual basis. Mr. Descheemaeker's salary was reviewed in 2019 resulting in an increase of his salary to £750,000. Mr. Descheemaeker is entitled to receive the following benefits under the terms of his agreement:

- (a) an annual contribution of £75,000 (based on an increase in 2019) paid either to a pension plan or to Mr. Descheemaeker directly (as he so directs);
- (b) eligibility for performance-related discretionary cash bonuses (target performance equates to 100% of base salary), subject to the achievement of financial and other performance targets as we may decide;
- (c) a one-time award of 2,000,000 ordinary shares remaining in the Company, 50% of which will vest on the Company exceeding an agreed EBITDA target and 50% of which will vest subject to the Company's shares achieving a specified target price. Both tranches of shares are also subject to further vesting conditions relating to Mr. Descheemaeker's tenure as Chief Executive Officer; and
- (d) an annual car allowance of £14,400, death in service benefit (three times salary), group income protection (offering 75% of base salary less £5,000) and family medical insurance.

We have the right to place Mr. Descheemaeker on paid leave for up to six months of his 12 month notice period. Mr. Descheemaeker is subject to confidentiality provisions and to non-competition and non-solicitation restrictive covenants for a period of between six and 12 months after the termination of his employment, subject to an off-set for paid leave. We may terminate Mr. Descheemaeker's employment at any time by serving a notice stating that we will pay to Mr. Descheemaeker within 14 days a sum equal to the basic salary (as at the date of the employment agreement), pension payment and car allowance in lieu of any required period of notice less certain deductions. We may also terminate Mr. Descheemaeker's employment agreement without any payment of compensation, damages, payment in lieu of notice or otherwise under certain circumstances, including, among other things, gross misconduct, material breach of the terms of such agreement or charge or conviction of a criminal offence.

Chief Financial Officer. Samy Zekhout was appointed as the Chief Financial Officer of the Company and as a Director of the Company effective on April 1, 2018. He entered into his Service Agreement with us on February 15, 2018. Under the agreement, Mr. Zekhout will receive an annual salary of £425,000 that will be reviewed, but not necessarily increased, on an annual basis. The first review took place in 2019 resulting in an increase of his salary to £437,000. Mr. Zekhout was or is entitled to receive the following benefits under the terms of his agreement:

- (a) an annual contribution of 10% of his base salary, paid either to a pension plan or to Mr. Zekhout directly (as he so directs);
- (b) eligibility for performance-related discretionary cash bonuses (up to 100% of salary with an opportunity to increase this to 200% depending on business performance), subject to the achievement of financial and other performance targets as the Company may decide;
- (c) a one-time award of 300,000 ordinary shares as incentive compensation under the Company's LTIP, subject to performance-based vesting conditions and the other terms and conditions set forth in a share grant award agreement; and
- (d) an annual car allowance of £13,200, death in service benefit (three times salary), group income protection (offering 75% of base salary less £5,000) and family medical insurance.

We have the right to place Mr. Zekhout on paid leave for his notice period. Mr. Zekhout is subject to confidentiality provisions and to non-competition and non-solicitation restrictive covenants for a period of 12 months after the termination of his employment, subject to an offset for paid leave. We have the right to terminate Mr. Zekhout's employment at any time by serving a notice stating that we will pay to Mr. Zekhout within 14 days a sum equal to the basic salary (as at the date of the employment agreement), in lieu of any required period of notice less certain deductions. We also have the right to terminate Mr. Zekhout's employment agreement without any payment of compensation, damages, payment in lieu of notice or otherwise under certain circumstances, including, among other things, gross misconduct, material breach of the terms of such agreement or charge or conviction of a criminal offence.

### ***Nomad Foods Limited Amended and Restated Long Term 2015 Incentive Plan ("LTIP")***

#### *Eligibility*

The LTIP is discretionary and will enable the Compensation Committee to make grants ("Awards") to any director or employee of the Company, although the current intention of the Committee is that Awards be granted only to directors and senior management.

#### *Awards*

Under the LTIP, the Committee or Board may grant Awards in the form of rights over ordinary shares. Where an Award vests, the participant will receive ordinary shares free and clear of any restrictions, other than those imposed by applicable securities laws.

#### *Performance conditions*

The vesting of Awards will be subject to conditions determined by the Committee. The current policy of the Committee is for vesting to be both time-based and related to the financial performance of the Company. Generally, the vesting period (i.e. the period over which performance is to be measured) will be between three and five years, and the ordinary shares subject to the Award will vest subject to the participant remaining an employee of the Company and not being on notice of termination at the vesting date and any performance targets relating to the Award having been fulfilled.

#### *Permitted dilution*

No Award may be granted on any date if, as a result, the total number of ordinary shares issued or remaining issuable pursuant to Awards or options granted in the previous ten years under the LTIP or any other employees' share plan operated by the Company would exceed 10% of the issued ordinary share capital of the Company on that date.

Awards may at the discretion of the Committee be satisfied out of new issue shares, treasury shares or shares provided out of an employee trust. Ordinary shares issued will rank pari passu with ordinary shares in issue at that time, save in relation to rights arising by reference to a record date before the date of issue. Participants will not be entitled to votes or dividends on the ordinary shares subject to Awards until such Awards vest.

#### *Early vesting*

Unless otherwise determined by the Committee, if a participant ceases to be employed by the Company due to death, disability, or otherwise as a good leaver, as determined by the Committee Awards will vest to the extent performance targets (adapted, if necessary, at the discretion of the Committee, to take into account the shortened vesting period) have been achieved and subject to the Committee's discretion to waive the performance targets in whole or in part. If a participant ceases employment for any other reason their Award(s) will lapse to the extent unvested at the date of cessation.

#### *Change of Control*

Unless otherwise determined by the Committee, in the event of a Change of Control or winding up of the Company (including by reason of an offer or scheme of arrangement), Awards will vest in accordance with the performance targets applied at the date of the Change of Control, subject to the Committee's discretion to waive such targets in whole or in part.

### *Variation in share capital*

The Committee may make such adjustments to Awards as it considers appropriate to preserve their value in the event of any variation in the ordinary share capital of the Company or to take account of any demerger or special dividend paid (or similar event which materially affects the market price of ordinary shares).

### *Amendments*

The Committee may amend the LTIP as it considers appropriate, subject to the written consent of participants to changes to their disadvantage to existing Awards. Shareholder approval is required to increase the permitted dilution limits.

### *General*

Benefits under the LTIP will not be pensionable. Awards are not transferable except to the participant's personal representatives on death.

### **Director Compensation**

In 2019, each of our non-executive directors (other than Messrs. Gottesman and Franklin) received, and are entitled to receive in 2020, \$50,000 per year together with an annual restricted stock grant issued under the LTIP equal to \$100,000 of ordinary shares valued at the date of issue, which vest on the earlier of the date of the following year's annual meeting of shareholders or 13 months from the issuance date. For those Directors who are members of board committees, each member is entitled to receive an additional \$2,000 per year. The chairman of the Audit Committee, currently, is entitled to receive \$10,000 per year and the chairmen of the Compensation and Nominating and Corporate Governance Committees, currently and respectively, are entitled to receive \$7,500 per year. Messrs. Gottesman and Franklin will not receive a fee in relation to their services as Directors.

Director fees are payable quarterly in arrears. In addition, all of the Directors are entitled to be reimbursed by us for travel, hotel and other expenses incurred by them in the course of their directors' duties.

## **C. Board Practices**

### **Board Composition and Election of Directors**

Our board of directors currently consists of eleven members. Our Memorandum and Articles of Association provides that our board of directors must be composed of at least one director. The number of directors is determined from time to time by resolution of our board of directors. Messrs. Gottesman and Franklin serve as Co-Chairmen of our board of directors. The Co-Chairmen have primary responsibility for providing leadership and guidance to our board and for managing the affairs of our board. Lord Myners is our lead independent director.

Pursuant to our Memorandum and Articles of Association, our directors are appointed at the annual meeting of shareholders for a one year term, with each director serving until the annual meeting of shareholders following their election. In addition, for so long as an initial holder of Founder Preferred Shares holds 20% or more of the Founder Preferred Shares in issue, such holder is entitled to nominate, and the directors are required to appoint, a person as director. For additional information regarding our board of directors, see Item 6A: Directors, Senior Management and Employees - Executive Officers and Directors.

Our non-executive directors do not have service contracts with us or any of our subsidiaries providing for benefits upon termination of employment.

### **Committees of the Board of Directors**

Our board of directors has three standing committees: an Audit Committee, a Compensation Committee and a Nominating and Corporate Governance Committee.

## Audit Committee

Our Audit Committee consists of three directors: Messrs. Lillie, White and MacFarlane, and Mr. Lillie serves as its chairman. Our Audit Committee is responsible for, among other things, assisting the board of directors in its oversight of the integrity of our financial statements, of our compliance with legal and regulatory requirements, and of the independence, qualifications and performance of our independent auditors. In addition, it focuses on compliance with accounting policies and ensuring that an effective system of internal and external audit and financial controls is maintained, and oversees our policies and procedures with respect to risk assessment and risk management. Our Audit Committee will meet at least quarterly with management and the independent auditors and report on such meetings to the board of directors. The responsibilities of our Audit Committee as set forth in its charter include oversight of the following: external audit, financial reporting, public disclosure, internal controls, risk management and compliance and whistleblowing.

## Compensation Committee

Our Compensation Committee consists of three directors: Messrs. Isaacs, Ashken, and Ms. Parry, and Mr. Isaacs serves as its chairman. Our Compensation Committee is responsible for determining the compensation of our executive officers. The responsibilities of our Compensation Committee as set forth in its charter include the following: assisting the board in evaluating potential candidates for executive positions, determining the compensation of our chief executive officer, making recommendations to the board with respect to the compensation of other executive officers, reviewing our incentive compensation and other equity-based plans, and reviewing, on a periodic basis, director compensation.

## Nominating and Corporate Governance Committee

Our Nominating and Corporate Governance Committee (the "N&CG Committee") consists of three directors: Lord Myners, Ms. Parry, and Mr. Lillie and Lord Myners serves as its chairman.

Our N&CG Committee is responsible for considering and making recommendations to the board of directors in respect of appointments to the board. The responsibility of our N&CG Committee as set forth in its Charter include the following: recommending directors to the board to serve as members of each committee, developing and recommending a set of corporate governance principles applicable to our company and overseeing board evaluations. It is also responsible for regularly reviewing the structure, size and composition of the board and making recommendations to the board with regard to any changes it deems necessary.

## D. Employees

As of December 31, 2019, we had approximately 4,775 employees. We also employed on average 370 temporary staff, in addition to 720 agency workers in 2019. We source the majority of our temporary workers from agencies to allow us to quickly respond and adapt to production demands. Approximately 70% of our employees work in our manufacturing operations, with the remaining employees involved in sales, marketing, finance, administration, procurement, logistics, product development, IT and other areas. Following are the number of employees by region for the last three years:

Region	2019	2018	2017
United Kingdom	1,222	1,223	801
Germany	1,412	1,394	1,267
Italy	478	456	451
Sweden/Norway	421	467	536
France	345	346	335
Other	897	927	485
<b>Total</b>	<b>4,775</b>	<b>4,813</b>	<b>3,875</b>

A number of our employees are members of trade unions in the UK, Germany, Italy, France, Sweden, Norway or Spain. Trade union membership is not required to be disclosed by employees, however, we estimate that less than 40% of our employees are members of a trade union. Many of our plants are governed by collective agreements with the respective unions. Our relationships with the trade unions are currently stable.

## E. Share Ownership

The following table sets forth, as of February 21, 2020, certain information regarding the beneficial ownership of our ordinary shares by:

- each of our current directors;
- each of our named executive officers for the fiscal year ended December 31, 2019; and
- all of our current directors and current executive officers as a group.

Percentages are based on the 201,127,847 ordinary shares that were issued and outstanding on February 21, 2020.

Director and Executive Officers:	Number	Percentage
Martin E. Franklin	11,451,700 (1)	5.7
Noam Gottesman	13,340,236 (2)	6.6
Ian G.H. Ashken	967,891 (3)	*
Stéfan Descheemaeker	2,600,647 (4)	1.3
Jeremy Isaacs	23,624 (5)	*
James E. Lillie	967,996 (6)	*
Stuart MacFarlane	- (7)	-
Lord Myners of Truro CBE	95,652 (8)	*
Victoria Parry	13,818 (9)	*
Simon White	28,557 (10)	*
Samy Zekhout	- (11)	-
Directors and Executive Officers as a Group (11 persons)	27,601,587	13.7

\* Represents beneficial ownership of less than one percent of ordinary shares outstanding.

- (1) Consists of (i) 5,539,705 ordinary shares held indirectly through the Martin E. Franklin Revocable Trust, (ii) 750,000 Founder Preferred Shares held indirectly through Mariposa Acquisition II, LLC (which are convertible at any time at the option of the holder into ordinary shares on a one-for-one basis), (iii) 3,147,559 ordinary shares held indirectly through RSMA, LLC and (iv) 944,267, 944,267 and 125,902 ordinary shares held by other members of Mariposa Acquisition II, LLC, respectively, which Sir Franklin has the sole power to vote pursuant to irrevocable proxy agreements dated each of June 15, 2018 and January 7, 2019. In addition, Sir Franklin indirectly owns 69% of Mariposa Acquisition II, representing 517,500 Founder Preferred Shares. Sir Franklin disclaims beneficial ownership of such shares except to the extent of his pecuniary interest therein.
- (2) Includes (i) 11,168,647 ordinary shares of which 4,460,537 are held by TOMS Acquisition I LLC and 6,708,110 are held by TOMS Capital Investments LLC, (ii) 750,000 Founder Preferred Shares which are convertible at any time at the option of the holder into ordinary shares on a one-for-one basis and all of which are held by TOMS Acquisition I LLC and (iii) an aggregate of 1,421,589 ordinary shares held by the members of TOMS Acquisition I LLC that are subject to an irrevocable proxy agreement granted to Mr. Gottesman. Mr. Gottesman is the managing member and majority owner of TOMS Acquisition I LLC and TOMS Capital Investments LLC and may be considered to have beneficial ownership of TOMS Acquisition I LLC's and TOMS Capital Investments LLC's interests in the Company. In addition, Mr. Gottesman owns or controls, directly or indirectly, 77.5% of TOMS Acquisition I LLC and 100% of TOMS Capital Investments LLC. Mr. Gottesman disclaims beneficial ownership of such shares except to the extent of his pecuniary interest therein.
- (3) Includes 944,267 ordinary shares held by Tasburgh, LLC, all of which are subject to an irrevocable proxy agreement granted to Sir Franklin (see note 1 above). Mr. Ashken is the Managing Manager of Tasburgh, LLC. Excludes an indirect pecuniary interest in 56,250 Founder Preferred Shares (which are convertible at any time at the option of the holder into ordinary shares on a one-for-one basis) held by Mariposa Acquisition II, LLC. Also excludes 4,921 ordinary shares issuable under currently outstanding equity awards issued under the LTIP, all of which will vest on the earlier of (i) the date of the Company's annual meeting of shareholders in 2020 or (ii) July 19, 2020.

- (4) Represents an indirect interest held by Olidipoli Sprl, a company owned by Mr. Descheemaeker. Excludes (i) 598,600 ordinary shares issuable under the LTIP that vested on February 24, 2020 (after giving effect to ordinary shares withheld to satisfy certain tax liabilities), (ii) 350,000 ordinary shares issuable under the LTIP that will vest on January 1, 2021 (the performance based vesting conditions for which have been satisfied), and (iii) 600,000 ordinary shares issuable under the LTIP, which will vest subject to performance based vesting conditions (and in each of cases (ii) and (iii), subject to further vesting conditions relating to Mr. Descheemaeker's tenure as Chief Executive Officer).
- (5) Excludes 4,921 ordinary shares issuable under currently outstanding equity awards issued under the LTIP, all of which will vest on the earlier of (i) the date of the Company's annual meeting of shareholders in 2020 or (ii) July 19, 2020.
- (6) Includes 944,267 ordinary shares held by Powder Horn Hill Partners II, LLC, all of which are subject to an irrevocable proxy agreement granted to Sir Franklin (see note 1 above). Mr. Lillie is the Managing Member of Powder Horn Hill Partners II, LLC. Excludes an indirect pecuniary interest in 56,250 Founder Preferred Shares (which are convertible at any time at the option of the holder into ordinary shares on a one-for-one basis) held by Mariposa Acquisition II, LLC. Also excludes 4,921 ordinary shares issuable under currently outstanding equity awards issued under the LTIP, all of which will vest on the earlier of (i) the date of the Company's annual meeting of shareholders in 2020 or (ii) July 19, 2020.
- (7) Excludes 4,921 ordinary shares issuable under currently outstanding equity awards issued under the LTIP, all of which will vest on the earlier of (i) the date of the Company's annual meeting of shareholders in 2020 or (ii) July 19, 2020.
- (8) Includes 50,000 ordinary shares issuable pursuant to a five-year option that expires on June 2, 2020 at a purchase price of \$11.50 per share. Excludes 4,921 ordinary shares issuable under currently outstanding equity awards issued under the LTIP, all of which will vest on the earlier of (i) the date of the Company's annual meeting of shareholders in 2020 or (ii) July 19, 2020.
- (9) Excludes 4,921 ordinary shares issuable under currently outstanding equity awards issued under the LTIP, all of which will vest on the earlier of (i) the date of the Company's annual meeting of shareholders in 2020 or (ii) July 19, 2020.
- (10) Excludes 4,921 ordinary shares issuable under currently outstanding equity awards issued under the LTIP, all of which will vest on the earlier of (i) the date of the Company's annual meeting of shareholders in 2020 or (ii) July 19, 2020.
- (11) Excludes 300,000 ordinary shares issuable under the LTIP, which will vest subject to performance based vesting conditions (and subject to further vesting conditions relating to Mr. Zekhout's tenure as Chief Financial Officer).

There are no arrangements for involving the employees in the capital of the Company, including any arrangement that involves the issue or grant of options or shares or securities of the Company, other than those described under Item 6. Directors, Senior Management and Employees—B. Compensation of Executive Officers and Directors—Nomad Foods Limited Amended and Restated Long Term 2015 Incentive Plan ("LTIP").

## **Item 7. Major Shareholders and Related Party Transactions**

### **A. Major Shareholders**

The following table sets forth certain information regarding the beneficial ownership of our ordinary shares by each person known by us to be a beneficial owner of more than 5% of the ordinary shares. Currently we only have one class of listed shares issued and outstanding, that being ordinary shares, which have no par value. All of our ordinary shares have the same voting rights. Percentages are based on the 201,127,847 ordinary shares that were issued and outstanding on February 21, 2020.

Name of Beneficial Owner:	Ordinary Shares Beneficially Owned	
	Number	Percentage
<b>5% Shareholders:</b>		
T. Rowe Price Associates Inc. 100 East Pratt Street Baltimore, MD 21202	14,835,761 (1)	7.4
Noam Gottesman c/o TOMS Acquisition I, LLC 450 W. 14th Street, 13th Floor New York, NY 10014	13,340,236 (2)	6.6
Boston Partners One Beacon Street, 30th Floor Boston, MA 02108	13,030,867 (3)	6.5
Martin E. Franklin c/o Mariposa Capital, LLC 500 South Pointe Drive, Suite 240 Miami Beach, FL 33139	11,451,700 (4)	5.7
FMR LLC 245 Summer Street Boston, MA 02210	10,308,881 (5)	5.1

- (1) Based on a Schedule 13G/A filed by T. Rowe Price Associates Inc. on February 14, 2020.
- (2) Based on a Schedule 13D/A filed by Mr. Gottesman, TOMS Acquisition I LLC and the other reporting persons described therein on January 6, 2020.
- (3) Based on a Schedule 13G/A filed by Boston Partners on February 10, 2020.
- (4) Based on a Schedule 13D/A filed by Sir Franklin, Martin E. Franklin Revocable Trust and the other reporting persons described therein on January 6, 2020.
- (5) Based on a Schedule 13G filed by FMR LLC on February 7, 2020.

As of February 21, 2020, we also have 1,500,000 preferred shares (Founder Preferred Shares) issued and outstanding, which have the same voting rights as the ordinary shares. Each of Mariposa Acquisition II, LLC and TOMS Acquisition I, LLC, our Founder Entities, owns 750,000 Founder Preferred Shares.

In addition, on September 12, 2017, Pershing Square Capital Management L.P., which as of March 28, 2017, beneficially owned 18.3% of our ordinary shares, filed a Schedule 13G/A to report that it no longer beneficially owned any of our ordinary shares. On July 18, 2017, Birds Eye Iglo Limited Partnership Inc., which as of March 28, 2017, beneficially owned 7.6% of our ordinary shares, filed a Schedule 13G/A to report that it no longer beneficially owned any of our ordinary shares. On February 9, 2018, Third Point LLC, which as of March 28, 2017, beneficially owned 5.8% of our ordinary shares, filed a Schedule 13G/A to report that it no longer beneficially owned any of our ordinary shares. On February 14, 2018, Corvex Management, LP filed a Schedule 13G/A to report that its percentage ownership in our ordinary shares decreased from 9.6%, as of March 31, 2017, to 4.9%. On January 10, 2017, Wellington Management Group LLP, which, as of March 31, 2016, beneficially owned 13.9% of our ordinary shares, and as of September 12, 2016, beneficially owned 8.2% of our ordinary shares, filed a Schedule 13G/A to report that it no longer beneficially owned any of our ordinary shares. On February 7, 2017, T. Rowe Price Associates Inc. filed a Schedule 13G to report that it beneficially owned 5.7% of our ordinary shares. On January 13, 2020, Elliott Associates, L.P. which as of September 18, 2017, beneficially owned 5.4% of our ordinary shares, filed a Schedule 13G/A to report that it no longer beneficially owned any of our ordinary shares. Except for the foregoing, no major shareholder has disclosed a significant change in its percentage ownership of our ordinary shares during the three years ended December 31, 2019.

## B. Related Party Transactions

For a description of our related party transactions, see Note 37, Related Parties, to our audited consolidated financial statements which appear elsewhere in this annual report.

## Related Party Transactions Procedures

The Audit Committee Charter provides that the Audit Committee shall review all related party transactions, as defined under Item 404 of Regulation S-K under the Securities Act of 1933, as amended. Following such review, the Audit Committee determines whether such transaction should be approved based on the terms of the transaction, the business purpose for the transaction and whether the transaction is in the best interest of the Company and its shareholders.

No member of the Audit Committee shall participate in any review, consideration or approval of any related party transaction with respect to which such member or any of his or her immediate family members is the related party.

## Item 8. Financial Information

### A. Consolidated Statements and Other Financial Information

#### *Financial Statements*

Please see Item 18 below.

#### *Export Sales*

For a description of our export sales which constitute all of our sales, please see Geographical information - External revenue by geography in Item 18, Note 5 below.

#### *Legal Proceedings*

We are not currently subject to any legal proceedings, nor to the best of our knowledge, is any proceeding threatened, the results of which would have a material impact on our properties, results of operation, or financial condition. Tax audits are taking place in a number of countries. Whenever there is a difference in view between local tax authorities and the Company, to the extent deemed necessary, provisions are made for exposures for which it will be probable that they will lead to additional tax liabilities. To the best of our knowledge, none of our officers or directors is involved in any legal proceedings in which we are an adverse party.

#### *Dividend Policy*

We have not declared or paid any dividends on our ordinary shares since our inception on April 1, 2014, and have no current plans to pay dividends on our ordinary shares. The declaration and payment of future dividends to holders of our ordinary shares will be at the discretion of our board of directors and will depend upon many factors, including our financial condition, earnings, legal requirements, restrictions in our debt agreements and other factors deemed relevant by our board of directors. In addition, as a holding company, our ability to pay dividends depends on our receipt of cash dividends from our operating subsidiaries, which may further restrict our ability to pay dividends as a result of the laws of their respective jurisdictions of organization, agreements of our subsidiaries or covenants under future indebtedness that we or they may incur. See Item 3D: Key Information - Risk Factors - Risks Related to our Ordinary Shares - Dividend payments on our ordinary shares are not expected, and for a discussion of taxation of any dividends, see Item 10E: Additional Information - Taxation.

The Founder Preferred Shares are entitled to receive an annual stock dividend based on the market price of our ordinary shares if such market price exceeds certain trading price minimums and to participate in any dividends on the ordinary shares. On December 31, 2019, we approved a 2019 Founder Preferred Share Dividend in an aggregate of 6,421,074 ordinary shares. The dividend price used to calculate the 2019 Founder Preferred Shares Annual Dividend Amount was \$21.7289 (calculated based upon the volume weighted average price for the last ten trading days of 2019) and the Ordinary Shares were issued on January 2, 2020. For the year ended December 31, 2018, we approved a 2018 Founder Preferred Share Dividend in an aggregate of 171,092 ordinary shares. The dividend price used to calculate the 2018 Founder Preferred Shares Annual Dividend Amount was \$16.7538 and the Ordinary Shares were issued on January 2, 2019. For the year ended December 31, 2017, we approved a 2017 Founder Preferred Share Dividend in an aggregate of 8,705,890 ordinary shares. The dividend price used to calculate the 2017 Founder preferred Shares Annual Dividend Amount was \$16.6516 (calculated based upon the volume weighted average price for the last ten trading days of 2017) and the Ordinary Shares were issued on January 2, 2018. For the year ended December 31, 2016, no Founder Preferred Shares Annual Dividend Amount was payable pursuant to the terms of the Founder Preferred Shares. On January 12, 2016, we had approved the 2015 Founder Preferred Share Dividend in an aggregate of 3,620,510 ordinary shares. The dividend price used to calculate the 2015 Founder Preferred Shares Annual Dividend Amount was \$11.4824 (calculated based upon the volume weighted average price for the last ten trading days of 2015) and the Ordinary Shares were issued on January 12, 2016. In subsequent years, the Founder Preferred Shares Annual Dividend Amount will be calculated based upon the volume weighted average price for the last ten trading days of the year and the appreciated average share price compared to the highest price previously used in calculating the Founder Preferred Shares Annual Dividend Amount. We currently expect to retain all our future earnings for use in the operation and expansion of our business and do not anticipate paying any cash dividends for the foreseeable future. The declaration and payment of future dividends to holders of our ordinary shares will be at the discretion of our board of directors and will depend upon many factors, including our financial condition, earnings, legal requirements, and restrictions in our debt agreements, including the Revolving Credit Facility, and other factors deemed relevant by our board of directors. As a holding company, our ability to pay dividends depends on our receipt of cash dividends from our operating subsidiaries, which may further restrict our ability to pay dividends as a result of the laws of their respective jurisdictions of organization, agreements of our subsidiaries or covenants under future indebtedness that we or they may incur. Furthermore, under British Virgin Islands law, we may pay dividends to our shareholders only if, immediately after the dividend, the value of our assets would exceed our liabilities and we would be able to pay our debts as they fall due.

## **B. Significant Changes**

No significant change has occurred since the date of the annual financial statements included in this annual report.

## **Item 9. The Offer and Listing**

### **A. Offer and Listing Details**

Our ordinary shares are currently listed for trading on the NYSE under the symbol "NOMD".

As of February 21, 2020, approximately 179,711,111 ordinary shares, representing approximately 89.4% of our outstanding ordinary shares, were held by approximately 18,980 United States beneficial holders and one record holder and all of our preferred shares were held by two United States record holders.

There is no public market for our preferred shares and the preferred shares will not be listed for trading on any exchange.

## **Item 10. Additional Information**

### **A. Share Capital**

Not applicable.

## B. Memorandum and Articles of Association

A copy of our Memorandum and Articles of Association have been previously filed as Exhibit 99.1 to our Report of Foreign Private Issuer on Form 6-K (File No. 001-37669), filed with the SEC on January 14, 2016, and is incorporated by reference into this annual report. The information called for by this Item 10B: Additional Information - Memorandum and Articles of Association has been reported previously in our Registration Statement on Form F-3 (File No. 333-225402), filed with the SEC on June 4, 2018 (the "Registration Statement"), under the heading "Description of Share Capital," and is incorporated by reference into this annual report. There are no limitations on the rights to own securities, including the rights of non-resident or foreign shareholders to hold or exercise voting rights on the securities imposed by the laws of the British Virgin Islands or by our Memorandum.

## C. Material Contracts

Each material contract to which the Company has been a party for the preceding two years, other than those entered into in the ordinary course of business, is listed as an exhibit to the Registration Statement and is summarized elsewhere herein.

## D. Exchange Controls

We are not aware of any governmental laws, decrees, regulations or other legislation in the British Virgin Islands that restrict the export or import of capital, including the availability of cash and cash equivalents for use by our affiliated companies, or that affect the remittance of dividends, interest or other payments to non-resident holders of our securities.

## E. Taxation

### U.S. Federal Income Taxation

#### General

The following discussion is a summary of certain U.S. federal income tax issues relevant to the acquisition, holding and disposition of the ordinary shares. Additional tax issues may exist that are not addressed in this discussion and that could affect the U.S. federal income tax treatment of the acquisition, holding and disposition of the ordinary shares.

This discussion does not address U.S. state, local or non-U.S. income tax consequences. The discussion applies, unless indicated otherwise, only to holders of ordinary shares who acquire the ordinary shares as capital assets. It does not address special classes of holders that may be subject to different treatment under the Internal Revenue Code of 1986, as amended (the "Code"), such as:

- certain financial institutions, insurance companies, underwriters, real estate investment trusts, or regulated investment companies;
- controlled foreign corporations or passive foreign investment companies;
- dealers and traders in securities;
- persons holding ordinary shares as part of a hedge, straddle, conversion or other integrated transaction;
- partnerships or other entities or arrangements classified as partnerships for U.S. federal income tax purposes;
- persons liable for the alternative minimum tax;
- tax-exempt organizations, qualified retirement plans, individual retirement accounts, or other tax-deferred accounts;
- certain U.S. expatriates or former long-term residents of the United States;
- a person that is required to accelerate the recognition of any item of gross income with respect to ordinary shares as a result of such income being recognized on an applicable financial statement;
- a person that acquired ordinary shares as compensation for services;

- persons holding ordinary shares that own or are deemed to own 10 percent or more (by vote or value) of the Company's voting stock; or
- persons that do not use the U.S. Dollar as their functional currency.

This section is based on the Code, its legislative history, existing and proposed Treasury regulations, published rulings by the Internal Revenue Service ("IRS") and court decisions, all as currently in effect. These laws are subject to change, possibly on a retroactive basis. Holders of ordinary shares should consult their own tax advisers concerning the U.S. federal, state, local and non-U.S. tax consequences of acquiring, holding and disposing of ordinary shares in their particular circumstances.

As used herein, a "U.S. Holder" is a beneficial owner of ordinary shares that is, for U.S. federal income tax purposes: (i) an individual who is a citizen or resident of the United States; (ii) a corporation or other entity taxable as a corporation, created or organized in or under the laws of the United States or any political subdivision thereof; (iii) an estate the income of which is subject to U.S. federal income taxation regardless of its source; or (iv) a trust if (1) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more "United States persons" (within the meaning of the Code) have the authority to control all substantial decisions of the trust, or (2) it has a valid election in effect under applicable Treasury regulations to be treated as a "United States person".

This discussion does not consider the tax treatment of partnerships or other pass-through entities that hold ordinary shares, or of persons who hold ordinary shares through such entities. If a partnership (or other entity or arrangement classified as a partnership for U.S. federal income tax purposes) is the beneficial owner of ordinary shares, the U.S. federal income tax treatment of a partner in the partnership will generally depend on the status of the partner and the activities of the partnership.

This discussion is based upon certain understandings and assumptions with respect to the business, assets and shareholders, including that the Company is not, does not expect to become, nor at any time has been, a controlled foreign corporation as defined in Section 957 of the Code (a "CFC"). The Company believes that it is not and has never been a CFC, and does not expect to become a CFC. In the event that one or more of such understandings and assumptions proves to be inaccurate, the following discussion may not apply and material adverse U.S. federal income tax consequences may result to U.S. Holders.

#### ***Passive Foreign Investment Company ("PFIC") Considerations***

The U.S. federal income tax treatment of U.S. Holders will differ depending on whether the Company is considered a passive foreign investment company ("PFIC") for U.S. federal income tax purposes.

In general, the Company will be considered a PFIC for any taxable year in which: (i) 75 percent or more of its gross income consists of passive income; or (ii) 50 percent or more of the average quarterly market value of its assets in that year are assets (including cash) that produce, or are held for the production of, passive income. For purposes of the above calculations, if the Company, directly or indirectly, owns at least 25 percent by value of the stock of another corporation, then the Company generally would be treated as if it held its proportionate share of the assets of such other corporation and received directly its proportionate share of the income of such other corporation. Passive income generally includes, among other things, dividends, interest, rents, royalties, certain gains from the sale of stock and securities, and certain other investment income.

Based on the current and anticipated composition of the income, assets and operations of the Company and its subsidiaries, the Company believes that it will not be a PFIC in its current taxable year and is not likely to be a PFIC in future taxable years. However, there is no assurance that the Company will not be a PFIC in any taxable year because PFIC status is factual in nature, depends upon factors not wholly within the Company's control, generally cannot be determined until the close of the taxable year in question, and is determined annually. If the Company is a PFIC for any taxable year during which a U.S. Holder holds (or, in the case of a lower-tier PFIC, is deemed to hold) its ordinary shares, such U.S. Holder will be subject to significant adverse U.S. federal income tax rules. U.S. Holders should consult their tax advisers on the federal income tax consequences of the Company being treated as a PFIC.

## **Tax Consequences for U.S. Holders if the Company is not a PFIC**

### *Dividends*

In general, subject to the PFIC rules discussed above, a distribution on an ordinary share will constitute a dividend for U.S. federal income tax purposes to the extent that it is made from the Company's current or accumulated earnings and profits as determined under U.S. federal income tax principles. If a distribution exceeds the Company's current and accumulated earnings and profits, it will be treated as a non-taxable reduction of basis to the extent of the U.S. Holder's tax basis in the ordinary share on which it is paid, and to the extent it exceeds that basis it will be treated as capital gain. For purposes of this discussion, the term "dividend" means a distribution that constitutes a dividend for U.S. federal income tax purposes.

The gross amount of any dividend on an ordinary share (which will include the amount of any foreign taxes withheld) generally will be subject to U.S. federal income tax as foreign source dividend income, and will not be eligible for the corporate dividends received deduction. The amount of a dividend paid in foreign currency will be its value in U.S. Dollars based on the prevailing spot market exchange rate in effect on the day the U.S. Holder receives the dividend. A U.S. Holder will have a tax basis in any distributed foreign currency equal to its U.S. Dollar amount on the date of receipt, and any gain or loss realized on a subsequent conversion or other disposition of foreign currency generally will be treated as U.S. source ordinary income or loss. If dividends paid in foreign currency are converted into U.S. Dollars on the date they are received by a U.S. Holder, the U.S. Holder generally should not be required to recognize foreign currency gain or loss in respect of the dividend income.

Subject to certain exceptions for short-term and hedged positions, a dividend that a non-corporate holder receives on an ordinary share will be subject to a maximum federal income tax rate of 20 percent if the dividend is a "qualified dividend" not including the Medicare Contribution Tax described below. A dividend on an ordinary share will be a qualified dividend if (i) either (a) the ordinary shares are readily tradable on an established market in the United States or (b) the Company is eligible for the benefits of a comprehensive income tax treaty with the United States that the Secretary of the Treasury determines is satisfactory for purposes of these rules and that includes an exchange of information program, and (ii) the Company was not, in the year prior to the year the dividend was paid, and is not, in the year the dividend is paid, a PFIC. Since the ordinary shares are listed on the New York Stock Exchange, the ordinary shares should be treated as readily tradable on an established securities market in the United States. Even if dividends on the ordinary shares would otherwise be eligible for qualified dividend treatment, in order to qualify for the reduced qualified dividend tax rates, a non-corporate holder must hold the ordinary share on which a dividend is paid for more than 60 days during the 120-day period beginning 60 days before the ex-dividend date, disregarding for this purpose any period during which the non-corporate holder has an option to sell, is under a contractual obligation to sell or has made (and not closed) a short sale of substantially identical stock or securities, is the grantor of an option to buy substantially identical stock or securities or, pursuant to Treasury regulations, has diminished its risk of loss by holding one or more other positions with respect to substantially similar or related property. In addition, to qualify for the reduced qualified dividend tax rates, the non-corporate holder must not be obligated to make related payments with respect to positions in substantially similar or related property. Payments in lieu of dividends from short sales or other similar transactions will not qualify for the reduced qualified dividend tax rates.

A non-corporate holder that receives an extraordinary dividend eligible for the reduced qualified dividend rates must treat any loss on the sale of the stock as a long-term capital loss to the extent of the dividend. For purposes of determining the amount of a non-corporate holder's deductible investment interest expense, a dividend is treated as investment income only if the non-corporate holder elects to treat the dividend as not eligible for the reduced qualified dividend tax rates. Special limitations on foreign tax credits with respect to dividends subject to the reduced qualified dividend tax rates apply to reflect the reduced rates of tax.

The U.S. Treasury has announced its intention to promulgate rules pursuant to which non-corporate holders of stock of non-U.S. corporations, and intermediaries through whom the stock is held, will be permitted to rely on certifications from issuers to establish that dividends are treated as qualified dividends. Because those procedures have not yet been issued, it is not clear whether the Company will be able to comply with them.

Non-corporate holders of ordinary shares are urged to consult their own tax advisers regarding the availability of the reduced qualified dividend tax rates with respect to dividends received on the ordinary shares in light of their own particular circumstances.

## Capital Gains

Subject to the PFIC rules discussed above, on a sale or other taxable disposition of an ordinary share, a U.S. Holder will recognize capital gain or loss in an amount equal to the difference between the U.S. Holder's adjusted basis in the ordinary share and the amount realized on the sale or other disposition, each determined in U.S. Dollars. Such capital gain or loss will be long-term capital gain or loss if at the time of the sale or other taxable disposition the ordinary share has been held for more than one year. In general, any adjusted net capital gain of an individual is subject to a maximum federal income tax rate of 20 percent, not including the Medicare Contribution Tax, discussed below. Capital gains recognized by corporate U.S. holders generally are subject to U.S. federal income tax at the same rate as ordinary income. The deductibility of capital losses is subject to limitations.

Any gain a U.S. Holder recognizes generally will be U.S. source income for U.S. foreign tax credit purposes, and, subject to certain exceptions, any loss will generally be a U.S. source loss. If a non-U.S. income tax is paid on a sale or other disposition of an ordinary share, the amount realized will include the gross amount of the proceeds of that sale or disposition before deduction of the non-U.S. tax. The generally applicable limitations under U.S. federal income tax law on crediting foreign income taxes may preclude a U.S. Holder from obtaining a foreign tax credit for any non-U.S. tax paid on a sale or other disposition of an ordinary share. The rules relating to the determination of the foreign tax credit are complex, and U.S. holders are urged to consult with their own tax advisers regarding the application of such rules. Alternatively, any non-U.S. income tax paid on the sale or other disposition of an ordinary share may be taken as a deduction against taxable income, provided the U.S. Holder takes a deduction and not a credit for all foreign income taxes paid or accrued in the same taxable year.

## Medicare Contribution Tax

Dividends received with respect to ordinary shares and capital gains from the sale or other taxable disposition of the ordinary shares recognized by certain non-corporate U.S. Holders will be includable in computing net investment income of such U.S. Holder for purposes of the 3.8 percent Medicare Contribution Tax.

## Tax Consequences for Non-U.S. Holders of Ordinary Shares

As used herein, a "non-U.S. Holder" is a beneficial owner of ordinary shares that is neither a U.S. Holder nor a partnership (or entity or arrangement classified as a partnership) for U.S. federal income tax purposes.

### Dividends

A non-U.S. Holder generally will not be subject to U.S. federal income tax or withholding on dividends received from the Company with respect to ordinary shares, other than in certain specific circumstances where such income is deemed effectively connected with the conduct by the non-U.S. Holder of a trade or business in the United States. If a non-U.S. Holder is entitled to the benefits of a U.S. income tax treaty with respect to those dividends, that income is generally subject to U.S. federal income tax only if it is attributable to a permanent establishment maintained by the non-U.S. Holder in the United States. A non-U.S. Holder that is subject to U.S. federal income tax on dividend income under the foregoing exception generally will be taxed with respect to such dividend income on a net basis in the same manner as a U.S. Holder unless otherwise provided in an applicable income tax treaty; a non-U.S. Holder that is a corporation for U.S. federal income tax purposes may also be subject to a branch profits tax with respect to such item at a rate of 30 percent (or at a reduced rate under an applicable income tax treaty).

### Sale, Exchange or Other Taxable Disposition of Ordinary Shares

A non-U.S. Holder generally will not be subject to U.S. federal income tax or withholding with respect to any gain recognized on a sale, exchange or other taxable disposition of ordinary shares unless:

- the gain is treated as effectively connected with the conduct by the non-U.S. Holder of a trade or business in the United States (and, if an applicable income tax treaty so requires, such gain is attributable to a permanent establishment maintained by the non-U.S. Holder in the United States); or
- the non-U.S. Holder is an individual and is present in the United States for 183 or more days in the taxable year of the sale, exchange or other taxable disposition, and meets certain other requirements.

If the first exception applies, the non-U.S. Holder generally will be subject to U.S. federal income tax with respect to such item on a net basis in the same manner as a U.S. Holder unless otherwise provided in an applicable income tax treaty; a non-U.S. Holder that is a corporation for U.S. federal income tax purposes may also be subject to a branch profits tax with respect to such item at a rate of 30 percent (or at a reduced rate under an applicable income tax treaty). If the second exception applies, the non-U.S. Holder generally will be subject to U.S. federal income tax at a rate of 30 percent (or at a reduced rate under an applicable income tax treaty) on the amount by which such non-U.S. Holder's capital gains allocable to U.S. sources exceed capital losses allocable to U.S. sources during the taxable year of disposition of the ordinary shares.

#### **Tax Consequences for Holders of Preferred Shares**

Generally, the U.S. federal income tax consequences of holding preferred shares is the same as the U.S. federal income tax consequences of holding ordinary shares, as discussed above. Holders of preferred shares may be eligible for a distribution of ordinary shares as a dividend with respect to the holding of preferred shares. The distribution of a stock dividend may under certain circumstances be received free of U.S. federal income taxes. In that case, the adjusted tax basis of the ordinary shares distributed will be determined based on an allocation of the basis of the preferred shares in accordance with the fair market value of the preferred shares and the ordinary shares distributed. Holders of preferred shares are urged to consult their own tax advisers about the U.S. federal, state and local Tax consequences of receiving a stock dividend.

#### **Information Reporting and Backup Withholding**

Under U.S. federal income tax laws, certain categories of U.S. Holders must file information returns with respect to their investment in, or involvement in, a foreign corporation (including IRS Forms 926). Persons who are required to file these information returns and fail to do so may be subject to substantial penalties. Pursuant to Section 1298(f) of the Code, for any year in which the Company is a PFIC, each U.S. Holder will be required to file an information statement, Form 8621, regarding such U.S. Holder's ownership interest in the Company. U.S. Holders of ordinary shares should consult with their own tax advisers regarding the requirements of filing information returns.

Furthermore, certain U.S. Holders who are individuals and to the extent provided in future regulations, certain entities, will be required to report information with respect to such U.S. Holder's investment in "foreign financial assets" on IRS Form 8938. An interest in the Company constitutes a foreign financial asset for these purposes. Persons who are required to report foreign financial assets and fail to do so may be subject to substantial penalties. Potential shareholders are urged to consult with their own tax advisers regarding the foreign financial asset reporting obligations and their application to an investment in ordinary shares.

Payments of dividends and sales proceeds that are made within the United States or through certain U.S.-related financial intermediaries generally are subject to information reporting and to backup withholding unless the U.S. Holder is a corporation or other exempt recipient or, in the case of backup withholding, the U.S. Holder provides a correct taxpayer identification number and certifies that no loss of exemption from backup withholding has occurred. The amount of any backup withholding from a payment to a U.S. Holder will be allowed as a credit against the U.S. Holder's U.S. federal income tax liability and may entitle such U.S. Holder to a refund, provided that the required information is furnished to the IRS.

Non-U.S. Holders generally are not subject to information reporting or backup withholding with respect to dividends paid on ordinary shares, or the proceeds from the sale, exchange or other disposition of ordinary shares, provided that each such non-U.S. Holder certifies as to its foreign status on the applicable duly executed IRS Form W-8 or otherwise establishes an exemption.

#### **Foreign Account Tax Compliance Act**

Under certain circumstances, the Company or its paying agent may be required, pursuant to the Foreign Account Tax Compliance Act ("FATCA"), to withhold U.S. tax at a 30 percent rate on all or a portion of payments of dividends or other corporate distributions to holders of ordinary shares that are treated as "foreign pass-thru payments" made on or after the date that is two years after the issuance of final regulations concerning such foreign pass-thru payments are published, if such payments are not in compliance with FATCA. Such regulations have not yet been issued. The rules regarding FATCA and "foreign pass-thru payments," including the treatment of proceeds from the disposition of ordinary shares, are complex and holders of ordinary shares are encouraged to consult their own tax advisers regarding the impact of the FATCA rules on them.

***This summary is for general information only and it is not intended to be, nor should it be construed to be, tax or legal advice to any prospective shareholder. Further, this summary is not intended to constitute a complete analysis of all U.S. federal income tax consequences relating to holders of their acquisition, ownership and disposition of the ordinary shares. Accordingly, prospective holders of ordinary shares should consult their own tax advisers about the U.S. federal, state, local and non-U.S. tax consequences of the acquisition, ownership and disposition of the ordinary shares.***

## **British Virgin Islands Taxation**

### ***The Company***

We are not subject to any income, withholding or capital gains taxes in the British Virgin Islands. No capital or stamp duties are levied in the British Virgin Islands on the issue, transfer or redemption of ordinary shares.

### ***Shareholders***

Shareholders who are not tax resident in the British Virgin Islands will not be subject to any income, withholding or capital gains taxes in the British Virgin Islands, with respect to the ordinary shares of the Company owned by them and dividends received on such ordinary shares, nor will they be subject to any estate or inheritance taxes in the British Virgin Islands.

## **United Kingdom Taxation**

### ***General***

The following is a general summary of material UK tax considerations relating to the ownership and disposal of our ordinary shares. The comments set out below are based on current UK tax law as of the date of this summary, which is subject to change, possibly with retrospective effect. This summary does not constitute legal or tax advice and applies only to shareholders holding our ordinary shares as an investment and who are the beneficial owners thereof, whose ordinary shares are not held through an individual savings account or a self-invested personal pension and who have not acquired their or another person's ordinary shares by reason of their or another person's employment. These comments may not apply to certain classes of persons, including dealers in securities, insurance companies and collective investment schemes.

This summary is for general information only and is not intended to be, nor should it be considered to be, legal or tax advice to any particular investor. It does not address all of the tax considerations that may be relevant to specific investors in light of their particular circumstances or to investors subject to special treatment under UK tax law. Potential investors should consult their own tax advisers concerning the overall tax consequences of acquiring, holding and disposing of our ordinary shares in their particular circumstances.

### ***The Company***

As previously stated, on January 12, 2016, we became centrally managed and controlled in the UK and therefore became resident in the UK for UK taxation purposes.

Accordingly, since that date, we are subject to UK taxation on our income and gains, except where an exemption applies. Dividend income will generally be exempt from UK corporation tax on income if certain conditions are met.

We may be treated as a dual resident company for UK tax purposes. As a result, our right to claim certain reliefs from UK tax may be restricted, and changes in law or practice in the UK could result in the imposition of further restrictions on our right to claim UK tax reliefs.

### ***Shareholders***

#### ***Sale, Exchange or Other Taxable Disposition of Ordinary Shares***

Subject to their individual circumstances, shareholders who are resident in the UK for UK taxation purposes will potentially be liable to UK taxation, as further explained below, on any gains which accrue to them on a sale or other disposition of their ordinary shares which constitutes a "disposal" for UK taxation purposes.

A shareholder who is not resident in the UK for UK tax purposes will not generally be subject to UK tax on chargeable gains on a disposal of ordinary shares unless such a shareholder carries on a trade, profession or vocation in the UK through a branch or agency or, in the case of a corporate shareholder, a permanent establishment. For shareholders in such circumstances, a gain on a disposal of our ordinary shares may be subject to UK taxation.

An individual shareholder who acquires ordinary shares while UK resident, who temporarily ceases to be UK resident or becomes resident in a territory outside the UK for the purposes of double taxation relief arrangements, and who disposes of our ordinary shares during that period of temporary non-UK residence, may on his or her return to the UK be liable to UK capital gains tax on any chargeable gain realized on that disposal.

For an individual shareholder within the charge to capital gains tax, a disposal of ordinary shares may give rise to a chargeable gain or allowable loss for the purposes of UK capital gains tax. The rate of capital gains tax is 10% for individuals who are subject to income tax at the basic rate and 20% to the extent that an individual shareholder's chargeable gains, when aggregated with his or her income chargeable to income tax, exceeds the basic rate band for income tax purposes. However, an individual shareholder is entitled to realize £12,000 of gains (the annual exempt amount) in the UK tax year ended April 5, 2020, without being liable to tax.

For a shareholder within the charge to UK corporation tax, a disposal (or deemed disposal) of ordinary shares may give rise to a chargeable gain or allowable loss for the purposes of UK corporation tax. Corporation tax is charged on chargeable gains at the rate applicable to that company, subject to any available exemption or relief. Indexation allowance may reduce the amount of chargeable gain that is subject to corporation tax (but may not give rise to or increase an allowable loss). No indexation allowance is available in respect of any period of ownership falling after December 2017.

#### *Dividends on Ordinary Shares*

No UK tax will be withheld or deducted at source from dividends paid by us on our ordinary shares.

Shareholders who are resident in the UK for tax purposes may, subject to their individual circumstances, be liable to UK income tax or, as the case may be, UK corporation tax on dividends paid to them by us.

The UK Government has introduced an annual dividend tax allowance per tax year. For the year ended April 5, 2020, it is £2,000. If and to the extent that an individual shareholder who is subject to UK income tax receives dividends in each tax year which, in aggregate, do not exceed that allowance, the individual will not be liable to UK income tax on those dividends. If and to the extent that an individual shareholder who is subject to UK income tax receives dividends in each tax year which, in aggregate, exceed that allowance, the individual will be subject to UK income tax on those dividends at the rate of 7.5% (in the case of basic rate taxpayers), 32.5% (in the case of higher rate taxpayers) and 38.1% (in the case of additional rate taxpayers), and the individual will not be entitled to any tax credit in respect of those dividends.

Shareholders who are within the charge to UK corporation tax are generally likely to be exempt from corporation tax on dividends they receive from us, provided the dividends fall within an exempt class and certain conditions are met.

#### **Stamp duty/stamp duty reserve tax**

##### *(i) Issue of Ordinary Shares*

No UK stamp duty or stamp duty reserve tax will be payable on the issue of ordinary shares.

##### *(ii) Transfers of Ordinary Shares*

UK stamp duty will in principle be payable on any instrument of transfer of our ordinary shares that is executed in the UK or that relates to any property situated, or to any matter or thing done or to be done, in the UK. An exemption from stamp duty is available on an instrument transferring ordinary shares where the amount or value of the consideration is £1,000 or less and it is certified on the instrument that the transaction effected by the instrument does not form part of a larger transaction or series of transactions in respect of which the aggregate amount or value of the consideration exceeds £1,000. Shareholders should be aware that, even where an instrument of transfer is in principle subject to stamp duty, stamp duty is not required to be paid unless it is necessary to rely on the instrument for legal purposes, for example to register a change of ownership or in litigation in a UK court. An instrument of transfer need not be stamped in order for the British Virgin Islands register of ordinary shares to be updated, and the register is conclusive proof of legal ownership.

Provided that the ordinary shares are not registered in any register maintained in the UK by or on behalf of us and are not paired with any shares issued by a UK incorporated company, any agreement to transfer ordinary shares will not be subject to UK stamp duty reserve tax.

We currently do not intend that any register of our ordinary shares will be maintained in the UK.

#### **F. Dividends and Paying Agents**

Not applicable.

#### **G. Statements by Experts**

Not applicable.

#### **H. Documents on Display**

Documents concerning us that are referred to herein may be inspected at our principal executive offices at: No. 1 New Square, Bedfont Lakes Business Park, Feltham, Middlesex, TW14 8HA. Those documents, which include our registration statements, periodic reports and other documents which were filed with the SEC, may be obtained electronically from the Investor section of our website at [www.nomadfoods.com](http://www.nomadfoods.com) or from the SEC's website at [www.sec.gov](http://www.sec.gov). We do not incorporate the information contained on, or accessible through, our website into this annual report, and you should not consider it a part of this annual report.

#### **I. Subsidiary Information**

Not applicable.

### **Item 11. Quantitative and Qualitative Disclosures About Market Risk**

We are exposed to certain market risks during the normal course of our business, such as risk arising from fluctuations in foreign currency exchange rates, as well as fluctuations in interest rates. In attempts to manage these risks, we employ certain strategies to mitigate the effect of these fluctuations. For a detailed discussion of these risks, see Note 33 "Financial risk management" to our audited consolidated financial statements which appear elsewhere in this annual report.

### **Item 12. Description of Securities Other than Equity Securities**

Not applicable.

### **Item 13. Defaults, Dividend Arrearages and Delinquencies**

None.

### **Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds**

None.

#### **Use of Proceeds**

None.

## **Item 15. Controls and Procedures**

### *Disclosure Controls and Procedures*

We carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, our principal executive officer and principal financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")), as of the end of the period covered by this report. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this annual report in providing a reasonable level of assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods in SEC rules and forms, including providing a reasonable level of assurance that information required to be disclosed by us in such reports is accumulated and communicated to our management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

### *Changes in internal control over financial reporting*

During the period covered by this report, there have been no changes to our internal controls over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

### *Management's annual report on internal control over financial reporting*

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act. The Company's internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. The Company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the Company's assets, (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of consolidated financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of the Company's management and directors, and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company's assets that could have a material effect on the consolidated financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management has assessed the effectiveness of our internal control over financial reporting as of December 31, 2019 using criteria described in Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission.

Based on this assessment, management concluded that the internal control over financial reporting was effective as of December 31, 2019 based on the criteria established in this Internal Control-Integrated Framework (2013).

### *Attestation report of the independent registered public accounting firm*

The independent registered public accounting firm that audited the Consolidated Financial Statements, PricewaterhouseCoopers LLP, has issued an attestation report on the effectiveness of the Company's internal control over financial reporting as of December 31, 2019, appearing under Item 18.

## **Item 16A. Audit Committee Financial Expert**

The board of directors has determined that Mr. Lillie qualifies as an audit committee financial expert as defined in Item 16A of Form 20-F, and that he is also "independent," as defined in Rule 10A-3 under the Exchange Act and applicable NYSE standards. For more information about Mr. Lillie, see *Item 6A: Directors, Senior Management and Employees - Directors and Senior Management*.

**Item 16B. Code of Ethics**

We have adopted a Code of Ethics that applies to our Chief Executive Officer and all senior financial officers. The Code of Ethics is located on our Internet website at [www.nomadfoods.com](http://www.nomadfoods.com) under "Investor Relations - Corporate Governance".

We intend to provide disclosure of any amendments or waivers of our Code of Ethics on our website within five business days following the date of the amendment or waiver.

**Item 16C. Principal Accountant Fees and Services**

PricewaterhouseCoopers LLP ("PwC") acted as our independent auditor for the years ended December 31, 2019 and 2018. The table below sets out the total amount billed to us by PwC, for services performed in the years ended December 31, 2019 and 2018, and breaks down these amounts by category of service:

(€ in millions)	For the year ended December 31, 2019	For the year ended December 31, 2018
Audit fees	3.3	2.8
Audit-related fees	0.1	0.1
Tax fees	1.5	1.1
All other fees	0.1	—
<b>Total</b>	<b>5.0</b>	<b>4.0</b>

**Audit Fees**

Audit fees in the years ended December 31, 2019 and 2018 are related to the audit of our consolidated financial statements and other audit or interim review services provided in connection with statutory and regulatory filings or engagements.

**Audit-Related Fees**

Audit-related fees in the years ended December 31, 2019 and 2018 are related to other assurance services on capital market transactions.

**Tax Fees**

Tax fees in the years ended December 31, 2019 and 2018 are related to tax compliance and other tax related services.

**All Other Fees**

Other fees in the year ended December 31, 2019 relate to other non-audit assurance services. There were no other fees in the year ended 2018.

**Pre-Approval Policies and Procedures**

The advance approval of the Audit Committee or members thereof, to whom approval authority has been delegated, is required for all audit and non-audit services provided by our auditors.

All services provided by our auditors are approved in advance by either the Audit Committee or members thereof, to whom authority has been delegated, in accordance with the Audit Committee's pre-approval policy. No such services were approved pursuant to the procedures described in Rule 2-01(c)(7)(i)(C) of Regulation S-X, which waives the general requirement for pre-approval in certain circumstances.

**Item 16D. Exemptions from the Listing Standards for Audit Committees**

None.

**Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers**

None.

**Item 16F. Change in Registrants' Certifying Accountant**

Not applicable.

**Item 16G. Corporate Governance**

**Comparison of Shareholder Rights**

We are incorporated under, and are governed by, the laws of the British Virgin Islands. The following discussion summarizes material differences between the rights of holders of our ordinary shares and the rights of common shareholders of a typical corporation incorporated under the laws of the State of Delaware.

***Director's Fiduciary Duties***

Under Delaware corporate law, a director of a solvent Delaware corporation owes fiduciary duties to the corporation and its shareholders. These duties have two components: the duty of care and the duty of loyalty. The duty of care requires that a director inform himself of all material information regarding a decision. The duty of loyalty requires that a director act in a manner he reasonably believes to be in the best interests of the corporation and its shareholders. A director must not use his corporate position for personal gain or advantage. The duty of loyalty prohibits self-dealing by a director and mandates that the best interest of the corporation and its shareholders take precedence over any interest possessed by a director, officer or controlling shareholder that is not shared by the shareholders generally. In general, the "business judgment rule" presumes that actions of the board of directors are made on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the corporation and its shareholders. This presumption may be rebutted by evidence of a breach of the directors' fiduciary duties. If this presumption is rebutted, the board of directors bear the burden of proving that the actions were "entirely fair" to the corporation or its minority shareholders. In addition, Delaware common law imposes "heightened" judicial scrutiny on actions of directors in certain circumstances, such as upon a sale of the corporation.

British Virgin Islands law provides that every director of a British Virgin Islands company in exercising his powers or performing his duties, shall act honestly and in good faith and in what the director believes to be in the best interests of the company. Additionally, the director shall exercise the care, diligence, and skill that a reasonable director would exercise in the same circumstances taking into account the nature of the company, the nature of the decision and the position of the director and his responsibilities. In addition, British Virgin Islands law provides that a director shall exercise his powers as a director for a proper purpose and shall not act, or agree to the company acting, in a manner that contravenes British Virgin Islands law or the memorandum and articles of association of the company.

***Amendment of Governing Documents***

Under Delaware corporate law, with very limited exceptions, a vote of the shareholders of a corporation is required to amend the certificate of incorporation. In addition, Delaware corporate law provides that shareholders have the right to amend the corporation's bylaws, but the certificate of incorporation may also confer such right on the directors of the corporation.

***Consent in Lieu of Meeting***

Under Delaware corporate law, a consent in lieu of a meeting of the directors must be unanimous to take effect. Under British Virgin Islands law and our Memorandum and Articles, only a majority of the directors are required to sign a written consent.

Under Delaware corporate law, unless otherwise provided in the certificate of incorporation, any action to be taken at any annual or special meeting of shareholders of a corporation may be taken without a meeting by consent of the holders of outstanding stock having not less than the minimum number of votes that would be necessary to take that action at a meeting at which all shareholders entitled to vote were present and voted. If any shareholder action is taken by less than unanimous consent, notice of such action must be given to those shareholders who have not consented and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that consents signed by a sufficient number of shareholders were delivered to the corporation.

Our Memorandum and Articles provides that any shareholder action permitted to be taken at a shareholder meeting may also be taken by written consent of a majority of the votes of shares entitled to vote thereon. If any shareholder resolution is adopted otherwise than by the unanimous written consent of all shareholders, a copy of such resolution shall be sent to all shareholders not consenting to such resolution.

### **Shareholder Proposals**

Under Delaware corporate law, a shareholder has the right to put any proposal before the annual meeting of shareholders, provided it complies with the relevant provisions (if any) in the corporation's certificate of incorporation or bylaws. A meeting of shareholders may be called by the board of directors or any other person authorized to do so by the corporation's certificate of incorporation or bylaws; shareholders may be precluded therein from calling special meetings. British Virgin Islands law and our Memorandum and Articles provide that our directors shall call a meeting of the shareholders if requested in writing to do so by shareholders entitled to exercise at least 30% of the voting rights in respect of the matter for which the meeting is requested.

### **Sale of Assets**

Under Delaware corporate law, a vote of the shareholders is required to approve a sale, lease or exchange of property and assets of a corporation (including property and assets of its qualifying subsidiaries) only when all or substantially all of the corporation's property and assets are being sold other than to a qualifying subsidiary of the corporation. Under British Virgin Islands law generally, shareholder approval is required when more than 50% of a company's total assets by value are being disposed of or sold to any person if not made in the usual or regular course of the business carried out by the company. Under our Memorandum and Articles, this requirement of British Virgin Islands law has been disapplied and accordingly no shareholder approval is required in relation to such a disposal or sale.

### **Redemption of Shares**

Under Delaware corporate law, by provision of the certificate of incorporation, any class or series of stock may be made subject to redemption by the corporation at its option, at the option of the holders of that stock or upon the happening of a specified event, provided that after such redemption shares of a class or series of stock with full voting power remain outstanding. The class or series of stock may, by provision of the certificate of incorporation, be made redeemable for cash, property or rights, as specified in the certificate of incorporation or in the resolution of the board of directors providing for the issue of the stock pursuant to the power expressly vested in the board of directors by the certificate of incorporation. Under Delaware corporate law, shares also may be repurchased with the consent of both the corporation and the holder, except that shares may not be repurchased for more than the price at which such shares may then be redeemed at the option of the corporation. Both the redemption and repurchase of shares of a Delaware corporation are subject to certain solvency limitations established by Delaware corporate law and Delaware common law. As permitted by British Virgin Islands law and our Memorandum and Articles, shares may be repurchased, redeemed or otherwise acquired by us. However, the consent of the shareholder whose shares are to be repurchased, redeemed or otherwise acquired must be obtained, except as specified in the terms of the applicable class or series of shares.

### **Squeeze-Out Merger**

Under the Delaware General Corporation Law § 253, in a process known as a "short form" merger, a corporation that owns at least 90% of the outstanding shares of each class of voting stock of another corporation and where at least one of the corporations is a Delaware corporation and the laws of the jurisdiction of the other corporation don't prohibit such action, may either merge the other corporation into itself or merge itself into the other corporation by executing, acknowledging and filing with the Delaware Secretary of State a certificate of ownership and merger setting forth a copy of the resolution of its board of directors authorizing such merger. If the parent corporation is a Delaware corporation that is not the surviving corporation, the merger also must be approved by a majority of the outstanding stock of the parent corporation entitled to vote thereon and the resolution must include provision for the pro rata issuance of stock of the surviving corporation to the holders of the stock of the parent corporation on surrender of any certificate therefor. If the parent corporation does not own all of the stock of the subsidiary corporation immediately prior to the merger, the minority shareholders of the subsidiary corporation party to the merger have appraisal rights as set forth in § 262 of the Delaware General Corporation Law.

Under the BVI Act, subject to any limitations in a company's memorandum and articles of association, members holding 90% of the votes of the outstanding shares entitled to vote, and members holding 90% of the votes of the outstanding shares of each class of shares entitled to vote, may give a written instruction to the company directing the company to redeem the shares held by the remaining members. In our Memorandum and Articles, we have opted out of the BVI Act's squeeze out provisions.

### **Variation of Rights of Shares**

Under Delaware corporate law, a corporation may vary the rights of a class of stock with the approval of a majority of the outstanding shares entitled to vote thereon, and, in certain circumstances, including if such variation would change the rights of such class so as to affect them adversely, with the approval of a majority of the outstanding shares of such class, voting separately as a single class.

As permitted by British Virgin Islands law and our Memorandum and Articles, we may vary the rights attached to any class with the written consent of at least 50% of the holders of each class of shares affected or by a resolution passed by at least 50% of the votes cast by eligible holders of the issued shares of the affected class at a separate meeting of the holders of that class.

### **Election of Directors**

Under Delaware corporate law generally, unless otherwise specified in the certificate of incorporation or bylaws of a corporation, directors are elected by a plurality of the votes of the shares entitled to vote on the election of directors and vacancies and newly created directorships resulting from an increase in the number of directors may be filled by a majority of the directors then in office (although less than a quorum) or by the sole remaining director. Subject to the BVI Act and pursuant to our Memorandum and Articles, directors shall be appointed at any time, and from time to time, by our directors, without the approval of shareholders, either to fill a vacancy or as an alternate or additional director. The shareholders may, by a majority vote, appoint any person as a director. In addition, for so long as an initial holder of Founder Preferred Shares holds 20% or more of the Founder Preferred Shares in issue, such holder is entitled to nominate, and the directors are required to appoint, a person as director. If such holder notifies the Company to remove any director nominated by him or her, the other directors shall remove such director, and the holder will have the right to nominate a director to fill the resulting vacancy. In the event an initial holder ceases to be a holder of Founder Preferred Shares or holds less than 20% of the Founder Preferred Shares in issue, such initial holder will no longer be entitled to nominate a person as a director, and the holders of a majority of the Founder Preferred Shares in issue will be entitled to exercise that initial holder's former rights to appoint a director instead.

### **Removal of Directors**

Under Delaware corporate law generally, a director of a corporation without a classified board may be removed, with or without cause, by the holders of a majority (or such larger portion set forth in the certificate of incorporation) of the outstanding shares entitled to vote at an election of directors. Under Delaware corporate law, generally a director of a corporation with a classified board may be removed only for cause with the approval of a majority (or such larger portion set forth in the certificate of incorporation) of the outstanding shares entitled to vote at an election of directors, unless the certificate of incorporation provides otherwise. Under Delaware corporate law, generally a director may resign at any time upon notice given in writing or by electronic transmission to the corporation.

Our Memorandum and Articles provide that a director may be removed at any time if: (i) he resigns by written notice to the Company; (ii) he is requested to resign by written notice of all of the other directors; (iii) he ceases to be a director by virtue of any provision of law or becomes prohibited by law from or is disqualified from being a director; (iv) he becomes bankrupt or makes any arrangement or composition with his creditors generally or otherwise has any judgment executed on any of his assets; (v) he becomes of unsound mind or incapable; (vi) he is absent from meetings of directors for a consecutive period of 12 months and the other directors resolve that his office shall be vacated; (vii) he dies; or (viii) a resolution of shareholders is approved by a majority of the shares entitled to vote on such matter passed at a meeting of shareholders called for the purposes of removing the director or for purposes including the removal of the director or a written special resolution of shareholders is passed by at least 75% of the votes of shares entitled to vote thereon.

## **Mergers**

Under Delaware corporate law, one or more constituent corporations may merge into and become part of another constituent corporation in a process known as a merger. A Delaware corporation may merge with a foreign corporation as long as the law of the foreign jurisdiction permits such a merger. To effect a merger under Delaware General Corporation Law § 251, an agreement of merger must be properly adopted and the agreement of merger or a certificate of merger must be filed with the Delaware Secretary of State. In order to be properly adopted, the agreement of merger must be adopted by the board of directors of each constituent Delaware corporation by a resolution or unanimous consent in lieu of a meeting. In addition, the agreement of merger generally must be approved at a meeting of shareholders of each constituent Delaware corporation by a majority of the outstanding stock of such corporation entitled to vote, unless the certificate of incorporation provides for a supermajority vote. In general, the surviving corporation is vested in all of the assets and liabilities of the disappearing corporation or corporations as a result of the merger.

Under the BVI Act, two or more companies may merge or consolidate in accordance with the statutory provisions. A merger means the merging of two or more constituent companies into one of the constituent companies, and a consolidation means the uniting of two or more constituent companies into a new company. In order to merge or consolidate, the directors of each constituent company must approve a written plan of merger or consolidation, which must be authorized by a resolution of shareholders. One or more companies may also merge or consolidate with one or more companies incorporated under the laws of jurisdictions outside the British Virgin Islands if the merger or consolidation is permitted by the laws of the jurisdictions in which the companies incorporated outside the British Virgin Islands are incorporated. In respect of such a merger or consolidation, a British Virgin Islands company is required to comply with the provisions of the BVI Act, and a company incorporated outside the British Virgin Islands is required to comply with the laws of its jurisdiction of incorporation.

Shareholders not otherwise entitled to vote on the merger or consolidation may still acquire the right to vote if the plan of merger or consolidation contains any provision that, if proposed as an amendment to the memorandum and articles of association, would entitle them to vote as a class or series on the proposed amendment. In any event, all shareholders must be given a copy of the plan of merger or consolidation irrespective of whether they are entitled to vote at the meeting or consent to the written resolution to approve the plan of merger or consolidation.

## **Inspection of Books and Records**

Under Delaware corporate law, any shareholder of a corporation may, upon proper demand, and for any proper purpose, inspect or make copies of the corporation's stock ledger, list of shareholders and other books and records. Members of the public, on payment of the requisite fee, can obtain a copy of a Delaware corporation's certificate of incorporation.

Under British Virgin Islands law, members of the general public, on payment of a nominal fee, can obtain copies of the public records of a company available at the office of the British Virgin Islands Registrar of Corporate Affairs, including the company's certificate of incorporation, its memorandum and articles of association (with any amendments), records of license fees paid to date, any articles of dissolution, any articles of merger and a register of charges if the company has elected to file such a register.

A shareholder of a company is entitled, on giving written notice to the company, to inspect:

- (a) the memorandum and articles of association;
- (b) the register of members;
- (c) the register of directors; and
- (d) the minutes of meetings and resolutions of shareholders and of those classes of shares of which he is a shareholder.

In addition, a shareholder may make copies of or take extracts from the documents and records referred to in (a) through (d) above. However, subject to the memorandum and articles of association of the company, the directors may, if they are satisfied that it would be contrary to the company's interests to allow a shareholder to inspect any document, or part of any document, specified in (b), (c) or (d) above, refuse to permit the shareholder to inspect the document or limit the inspection of the document, including limiting the making of copies or the taking of extracts from the records. Where a company fails or refuses to permit a shareholder to inspect a document or permits a shareholder to inspect a document subject to limitations, that shareholder may apply to the court for an order that he should be permitted to inspect the document or to inspect the document without limitation.

Where a company keeps a copy of the register of members or the register of directors at the office of its registered agent, it is required to notify the registered agent of any changes to the originals of such registers, in writing, within 15 days of any change; and to provide the registered agent with a written record of the physical address of the place or places at which the original register of members or the original register of directors is kept. Where the place at which the original register of members or the original register of directors is changed, the company is required to provide the registered agent with the physical address of the new location of the records within 14 days of the change of location.

A company is also required to keep at the office of its registered agent or at such other place or places, within or outside the British Virgin Islands, as the directors determine the minutes of meetings and resolutions of shareholders and of classes of shareholders, and the minutes of meetings and resolutions of directors and committees of directors. If such records are kept at a place other than at the office of the company's registered agent, the company is required to provide the registered agent with a written record of the physical address of the place or places at which the records are kept and to notify the registered agent, within 14 days, of the physical address of any new location where such records may be kept. The Company's registered agent in the British Virgin Islands is: Intertrust Corporate Services (BVI) Limited, Ritter House, Wickhams Cay II, Road Town, Tortola, British Virgin Islands.

### **Conflict of Interest**

Under Delaware corporate law, a contract or transaction between a corporation and a director or officer, or between a corporation and any other organization in which a director or officer has a financial interest or is a director or officer, is not void or voidable as long as (i) the material facts as to the director's or officer's relationship or interest are disclosed or known and either (A) a majority of the disinterested directors authorizes the contract or transaction in good faith or (B) the shareholders vote in good faith to approve the contract or transaction or (ii) the contract or transaction is fair to the corporation when it is authorized, approved or ratified by the board of directors, a committee thereof or the shareholders. Delaware corporate law permits the corporation to renounce, in its certificate of incorporation or by action of its board of directors, any interest or expectancy of the corporation in, or in being offered an opportunity to participate in, specified business opportunities or specified classes or categories of business opportunities that are presented to the corporation or one or more of its officers, directors or stockholders.

The BVI Act provides that a director shall, forthwith after becoming aware that he is interested in a transaction entered into or to be entered into by the company, disclose that interest to the board of directors of the company. The failure of a director to disclose that interest does not affect the validity of a transaction entered into by the director or the company, so long as the director's interest was disclosed to the board prior to the company's entry into the transaction or was not required to be disclosed because the transaction is between the company and the director himself and is otherwise in the ordinary course of business and on usual terms and conditions. As permitted by British Virgin Islands law and our Memorandum and Articles, a director interested in a particular transaction may vote on it, attend meetings at which it is considered and sign documents on our behalf that relate to the transaction. In addition, if our directors have other fiduciary obligations, including to other companies on whose board of directors they presently sit and to other companies whose board of directors they may join in the future, to the extent that they identify business opportunities that may be suitable for us or other companies on whose board of directors they may sit, our directors are permitted to honor those pre-existing fiduciary obligations ahead of their obligations to us. Accordingly, they may refrain from presenting certain opportunities to us that come to their attention in the performance of their duties as directors of such other entities unless the other companies have declined to accept such opportunities or clearly lack the resources to take advantage of such opportunities.

### **Transactions with "Interested Stockholders"**

Delaware corporate law contains a business combination statute applicable to Delaware public corporations whereby, unless the corporation has specifically elected not to be governed by that statute by appropriate action, it is prohibited from engaging in certain business combinations with an "interested stockholder" for three years following the date that the person becomes an "interested stockholder." An "interested stockholder" generally is a person or group that owns or owned 15% or more of the company's outstanding voting stock within the past three years. This statute has the effect of limiting the ability of a potential acquirer to make a two-tiered bid for the company in which all shareholders would not be treated equally. The statute does not apply if, among other things, prior to the date on which the shareholder becomes an "interested stockholder," the board of directors approves either the business combination or the transaction that resulted in the person becoming an "interested stockholder."

British Virgin Islands law has no comparable provision. However, although British Virgin Islands law does not regulate transactions between a company and its significant shareholders, it does provide that these transactions must be entered into in the bona fide best interests of the company and not with the effect of constituting a fraud on the minority shareholders.

### **Independent Directors**

There are no provisions under Delaware corporate law or under the BVI Act that require a majority of our directors to be independent.

### **Cumulative Voting**

Under Delaware corporate law, cumulative voting for elections of directors is not permitted unless the company's certificate of incorporation specifically provides for it. Cumulative voting potentially facilitates the representation of minority shareholders on a board of directors since it permits the minority shareholder to cast all the votes to which the shareholder is entitled on a single director, which increases the shareholder's voting power with respect to electing such director. There are no prohibitions on cumulative voting under the laws of the British Virgin Islands, but our Memorandum and Articles do not provide for cumulative voting.

### **Shareholders' Rights under British Virgin Islands Law Generally**

The BVI Act provides for certain remedies that may be available to shareholders. Where a company incorporated under the BVI Act or any of its directors engages in, or proposes to engage in, conduct that contravenes the BVI Act or the company's memorandum and articles of association, British Virgin Islands courts can issue a restraining or compliance order. However, shareholders cannot also bring derivative, personal and representative actions under certain circumstances. The traditional English basis for shareholders' remedies has also been incorporated into the BVI Act: where a shareholder of a company considers that the affairs of the company have been, are being or are likely to be conducted in a manner likely to be oppressive, unfairly discriminating or unfairly prejudicial to him, he may apply to the court for an order based on such conduct. In addition, any shareholder of a company may apply to the courts for the appointment of a liquidator of the company and the court may appoint a liquidator of the company if it is of the opinion that it is just and equitable to do so.

The BVI Act also provides that any shareholder of a company is entitled to payment of the fair value of his shares upon dissenting from any of the following: (i) a merger, if the company is a constituent company, unless the company is the surviving company and the shareholder continues to hold the same or similar shares; (ii) a consolidation, if the company is a constituent company; (iii) any sale, transfer, lease, exchange or other disposition of more than 50% in value of the assets or business of the company if not made in the usual or regular course of the business carried on by the company but not including (a) a disposition pursuant to an order of the court having jurisdiction in the matter, (b) a disposition for money on terms requiring all or substantially all net proceeds to be distributed to the shareholders in accordance with their respective interest within one year after the date of disposition, or (c) a transfer pursuant to the power of the directors to transfer assets for the protection thereof; (iv) a redemption of 10% or fewer of the issued shares of the company required by the holders of 90% or more of the shares of the company pursuant to the terms of the BVI Act; and (v) an arrangement, if permitted by the court.

Generally any other claims against a company by its shareholders must be based on the general laws of contract or tort applicable in the British Virgin Islands or their individual rights as shareholders as established by a company's memorandum and articles of association.

### **Foreign Private Issuer Exemption**

As a "foreign private issuer," as defined by the SEC, we are permitted to follow certain corporate governance practices of our home country, the British Virgin Islands, instead of those otherwise required under the NYSE for domestic issuers. While we voluntarily follow most NYSE corporate governance rules, we intend to take advantage of the following limited exemptions:

- Unlike NYSE corporate governance rules, under BVI law, there is no requirement that our board of directors consist of a majority of independent directors and our independent directors are not required to hold executive sessions. Currently, however only seven out of our eleven board members are independent based on NYSE independence standards. Also, while our board's non-management directors will meet regularly in executive session without management, our board does not intend to hold an executive session of only independent directors at least once a year as called for by the NYSE.

- The NYSE rules applicable to domestic issuers require disclosure within four business days of any determination to grant a waiver of the code of business conduct and ethics to directors and officers. Although we will require board approval of any such waiver, we may choose not to disclose the waiver in the manner set forth in the NYSE rules, as permitted by the foreign private issuer exemption.
- We are exempt from the rules and regulations under the Exchange Act and NYSE related to the furnishing and content of proxy statements. Therefore, we intend to hold annual shareholder meetings in accordance with the corporate governance practices of the British Virgin Islands and our Memorandum and Articles of Association. Similarly, with respect to matters on which shareholders will have a right to vote, we intend to comply with corporate governance practices of the British Virgin Islands and the voting requirements under the NYSE rules applicable to foreign private issuers.

**Item 16H. Mine Safety Disclosure**

None.

**Item 17. Financial Statements**

Not Applicable.

**Item 18. Financial Statements**

The following financial statements, together with the report of PricewaterhouseCoopers LLP thereon, are filed as part of this annual report:

**NOMAD FOODS LIMITED AND SUBSIDIARIES  
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## Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Nomad Foods Limited

### ***Opinions on the Financial Statements and Internal Control over Financial Reporting***

We have audited the accompanying Consolidated Statements of Financial Position of Nomad Foods Limited and its subsidiaries (the "Company") as of December 31, 2019 and 2018, and the related Consolidated Statements of Profit or Loss, of Comprehensive Income, of Changes in Equity, and of Cash Flows for each of the three years in the period ended December 31, 2019, including the related notes (collectively referred to as the "consolidated financial statements"). We also have audited the Company's internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control - Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019 in conformity with International Financial Reporting Standards as issued by the International Accounting Standards Board and in conformity with International Financial Reporting Standards as adopted by the European Union. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control - Integrated Framework* (2013) issued by the COSO.

#### *Change in Accounting Principle*

As discussed in Note 2 to the consolidated financial statements, the Company changed the manner in which it accounts for leases in 2019.

#### ***Basis for Opinions***

The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in Management's Annual Report on Internal Control over Financial Reporting appearing under Item 15. Our responsibility is to express opinions on the Company's consolidated financial statements and on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

## **Definition and Limitations of Internal Control over Financial Reporting**

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

## **Critical Audit Matters**

The critical audit matters communicated below are matters arising from the current period audit of the consolidated financial statements that were communicated or required to be communicated to the audit committee and that (i) relate to accounts or disclosures that are material to the consolidated financial statements and (ii) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

### *Goodwill impairment assessment*

As described in Note 3, 4 and 13 to the consolidated financial statements, the Company's consolidated goodwill balance was €1,862.9 million at December 31, 2019. Management performs an annual review of the carrying amount of the goodwill to identify whether there is any impairment to these carrying values. Potential impairment is identified by comparing the value in use of the cash-generating unit ("CGU") to its carrying value, including goodwill. Value in use is calculated as the net present value of the projected risk-adjusted cash flows of each CGU. Estimating value in use required various management judgments and assumptions including revenue and profit margin growth rates, long-term growth rate and discount rate.

The principal considerations for our determination that performing procedures relating to the goodwill impairment assessment is a critical audit matter are there was significant judgment by management when developing the value in use of the CGUs using the discounted cash flows technique. This in turn led to a high degree of auditor judgment, subjectivity, and effort in performing procedures and evaluating audit evidence obtained related to management's cash flow forecasts and significant assumptions, including revenue and profit margin growth rates, long-term growth rate and discount rate. In addition, the audit effort involved the use of professionals with specialized skill and knowledge to assist in performing these procedures and evaluating the audit evidence obtained.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to management's goodwill impairment assessment, including controls over the valuation of the Company's CGUs. These procedures also included, among others, testing management's process for developing the value in use estimates; evaluating the appropriateness of the discounted cash flow model; testing the completeness, accuracy and relevance of underlying data used in the model; and evaluating the reasonableness of the significant assumptions used by management including the revenue and profit margin growth rates, long-term growth rate and discount rate. Evaluating the reasonableness of management's assumptions related to the Company's cash flow forecasts involved evaluating whether the revenue and profit margin growth rates were reasonable considering (i) the current and past performance of the CGUs, (ii) the consistency with external market and industry data, (iii) whether these assumptions were consistent with evidence obtained in other areas of the audit and (iv) performing sensitivity analyses. Professionals with specialized skill and knowledge were used to assist in the evaluation of the Company's discounted cash flow model, and certain significant assumptions, including the long-term growth rate and discount rate.

### *Uncertain tax positions*

As described in Note 3, 4 and 11 to the consolidated financial statements, the Company operates in many different jurisdictions and in some of these, certain matters are under discussion with local tax authorities. These discussions are often complex and can take many years to resolve, and are in different stages with respect to assessments, appeals and refunds. Where tax exposures can be quantified, a provision is made based on management's estimates and judgments with regard to the amounts expected to be paid to the relevant tax authority. As of December 31, 2019, the current tax payables of €217.2 million and deferred tax assets of €96.4 million included €137.8 million of provisions for tax uncertainties. As management has further disclosed, given the inherent uncertainties in assessing the outcomes of these exposures, the Company could in future periods experience adjustments to these accruals.

The principal considerations for our determination that performing procedures relating to uncertain tax positions is a critical audit matter are there was significant judgment by management when determining uncertain tax positions, including a high degree of estimation uncertainty relative to the numerous and complex tax laws, frequency of tax audits, and potential for significant adjustments as a result of such audits. This in turn led to a high degree of auditor judgment, subjectivity, and effort in performing procedures to evaluate the timely identification and accurate measurement of uncertain tax positions. Also, the evaluation of audit evidence available to support the tax liabilities for uncertain tax positions is complex and required significant auditor judgment as the nature of the evidence is often highly subjective, and the audit effort involved the use of professionals with specialized skill and knowledge to assist in evaluating the audit evidence obtained.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to the identification and recognition of the liability for uncertain tax positions, and controls addressing completeness of the uncertain tax positions, as well as controls over measurement of the liability. These procedures also included, among others, (i) testing the information used in the calculation of the liability for uncertain tax positions; (ii) testing the calculation of the liability for uncertain tax positions by jurisdiction, including management's assessment of the technical merits of tax positions and estimates of the amount of tax benefit expected to be sustained; (iii) testing the completeness of management's assessment of both the identification of uncertain tax positions and possible outcomes of each uncertain tax position; and (iv) evaluating the status and results of income tax audits with the relevant tax authorities. Professionals with specialized skill and knowledge were used to assist in the evaluation of the completeness and measurement of the Company's uncertain tax positions, including evaluating the reasonableness of management's assessment of whether tax positions are more-likely-than-not of being sustained and the amount of potential benefit to be realized, the application of relevant tax laws, and estimated interest and penalties.

/s/ PricewaterhouseCoopers LLP  
London, United Kingdom  
February 27, 2020

We have served as the Company's or its predecessor's <sup>1</sup> auditor since 2006.

<sup>1</sup>*Nomad Foods Europe Holdings Limited (previously Iglo Foods Holdings Limited) and its subsidiaries*

## Consolidated Statements of Financial Position

	Note	December 31, 2019 €m	December 31, 2018 €m
<b>Non-current assets</b>			
Goodwill	13	1,862.9	1,861.0
Intangibles	13	2,083.1	2,087.2
Property, plant and equipment	12	422.4	348.8
Other non-current assets	18	1.9	2.6
Derivative financial instruments	34	17.5	35.7
Deferred tax assets	16	96.4	68.7
<b>Total non-current assets</b>		<b>4,484.2</b>	<b>4,404.0</b>
<b>Current assets</b>			
Cash and cash equivalents	20	826.1	327.6
Inventories	17	323.2	342.5
Trade and other receivables	18	206.7	173.9
Indemnification assets	19	35.4	79.4
Short-term investments	34	25.0	—
Derivative financial instruments	34	3.9	13.4
<b>Total current assets</b>		<b>1,420.3</b>	<b>936.8</b>
<b>Total assets</b>		<b>5,904.5</b>	<b>5,340.8</b>
<b>Current liabilities</b>			
Trade and other payables	22	525.2	571.6
Current tax payable		217.2	201.2
Provisions	24	40.9	44.3
Loans and borrowings	21	27.7	21.4
Derivative financial instruments	34	12.1	1.5
<b>Total current liabilities</b>		<b>823.1</b>	<b>840.0</b>
<b>Non-current liabilities</b>			
Loans and borrowings	21	1,847.6	1,742.9
Employee benefits	23	237.5	200.6
Other non-current liabilities	22	2.7	1.3
Provisions	24	5.9	69.4
Derivative financial instruments	34	32.8	35.4
Deferred tax liabilities	16	398.2	392.1
<b>Total non-current liabilities</b>		<b>2,524.7</b>	<b>2,441.7</b>
<b>Total liabilities</b>		<b>3,347.8</b>	<b>3,281.7</b>
<b>Net assets</b>		<b>2,556.7</b>	<b>2,059.1</b>
<b>Equity</b>			
Share capital and capital reserve	25	2,095.4	1,748.5
Share-based compensation reserve	26	22.6	9.4
Founder Preferred Shares Dividend Reserve	27	370.1	372.6
Translation reserve	28	94.8	88.8
Cash flow hedging reserve	29	(13.2)	8.5
Accumulated deficit reserve		(11.8)	(167.9)
<b>Equity attributable to owners of the parent</b>		<b>2,557.9</b>	<b>2,059.9</b>
Non-controlling interests		(1.2)	(0.8)
<b>Total equity</b>		<b>2,556.7</b>	<b>2,059.1</b>

The accompanying notes are an integral part of these consolidated financial statements.

## Consolidated Statements of Profit or Loss

		Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	Note	€m	€m	€m
Revenue	5	2,324.3	2,172.8	1,956.6
Cost of sales		(1,626.4)	(1,519.3)	(1,357.2)
<b>Gross profit</b>		<b>697.9</b>	<b>653.5</b>	<b>599.4</b>
Other operating expenses		(359.9)	(352.7)	(319.3)
Exceptional items	7	(54.5)	(17.7)	(37.2)
<b>Operating profit</b>	6	<b>283.5</b>	<b>283.1</b>	<b>242.9</b>
Finance income	10	2.5	1.6	7.2
Finance costs	10	(75.7)	(57.6)	(81.6)
<b>Net financing costs</b>		<b>(73.2)</b>	<b>(56.0)</b>	<b>(74.4)</b>
<b>Profit before tax</b>		<b>210.3</b>	<b>227.1</b>	<b>168.5</b>
Taxation	11	(56.7)	(56.6)	(32.0)
<b>Profit for the period</b>		<b>153.6</b>	<b>170.5</b>	<b>136.5</b>
<b>Attributable to:</b>				
Equity owners of the parent		154.0	171.2	136.5
Non-controlling interests		(0.4)	(0.7)	—
		<b>153.6</b>	<b>170.5</b>	<b>136.5</b>
<b>Earnings per share:</b>				
Basic earnings per share	30	€0.80	€0.97	€0.78
Diluted earnings per share	30	€0.78	€0.97	€0.74

The accompanying notes are an integral part of these consolidated financial statements.

## Consolidated Statements of Comprehensive Income

	Note	Year ended December 31, 2019 €m	Year ended December 31, 2018 €m	Year ended December 31, 2017 €m
<b>Profit for the period</b>		<b>153.6</b>	<b>170.5</b>	<b>136.5</b>
<b>Other comprehensive (loss)/income:</b>				
Actuarial (losses)/gains on defined benefit pension plans	23	(35.9)	(12.9)	2.9
Taxation credit/(charge) on remeasurement of defined benefit pension plans	11	6.7	3.3	(2.0)
<b>Items not reclassified to the Consolidated Statement of Profit or Loss</b>		<b>(29.2)</b>	<b>(9.6)</b>	<b>0.9</b>
Gain/(loss) on investment in foreign subsidiary, net of hedge		6.0	5.6	(0.8)
Effective portion of changes in fair value of cash flow hedges	29	(27.3)	15.5	(16.4)
Taxation credit/(charge) relating to components of other comprehensive income	11	5.6	(4.0)	5.0
<b>Items that may be subsequently reclassified to the Consolidated Statement of Profit or Loss</b>		<b>(15.7)</b>	<b>17.1</b>	<b>(12.2)</b>
<b>Other comprehensive (loss)/income for the period, net of tax</b>		<b>(44.9)</b>	<b>7.5</b>	<b>(11.3)</b>
<b>Total comprehensive income for the period</b>		<b>108.7</b>	<b>178.0</b>	<b>125.2</b>
<b>Attributable to:</b>				
Equity owners of the parent		109.1	178.7	125.2
Non-controlling interests		(0.4)	(0.7)	—
		<b>108.7</b>	<b>178.0</b>	<b>125.2</b>

The accompanying notes are an integral part of these consolidated financial statements.

## Consolidated Statements of Changes in Equity

	Note	Share capital and capital reserve €m	Share-based compensation reserve €m	Founder preferred shares dividend reserve €m	Translation reserve €m	Cash flow hedging reserve €m	Accumulated deficit reserve €m	Equity attributable to owners of the parent €m	Non-controlling interests €m	Total Equity €m
<b>Balance at January 1, 2017</b>		<b>1,800.7</b>	<b>1.0</b>	<b>493.4</b>	<b>84.0</b>	<b>8.4</b>	<b>(485.0)</b>	<b>1,902.5</b>	<b>—</b>	<b>1,902.5</b>
Profit for the year		—	—	—	—	—	136.5	136.5	—	136.5
Other comprehensive (loss)/income for the year		—	—	—	(0.8)	(11.4)	0.9	(11.3)	—	(11.3)
<b>Total comprehensive (loss)/income for the year</b>		<b>—</b>	<b>—</b>	<b>—</b>	<b>(0.8)</b>	<b>(11.4)</b>	<b>137.4</b>	<b>125.2</b>	<b>—</b>	<b>125.2</b>
Repurchase of ordinary shares		(177.1)	—	—	—	—	—	(177.1)	—	(177.1)
Listing and share transaction costs		(0.5)	—	—	—	—	—	(0.5)	—	(0.5)
Vesting of Non-Executive Restricted Stock award		0.6	(0.7)	—	—	—	—	(0.1)	—	(0.1)
Share based payment charge		—	2.6	—	—	—	—	2.6	—	2.6
<b>Total transactions with owners, recognized directly in equity</b>		<b>(177.0)</b>	<b>1.9</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>(175.1)</b>	<b>—</b>	<b>(175.1)</b>
<b>Balance as of December 31, 2017</b>		<b>1,623.7</b>	<b>2.9</b>	<b>493.4</b>	<b>83.2</b>	<b>(3.0)</b>	<b>(347.6)</b>	<b>1,852.6</b>	<b>—</b>	<b>1,852.6</b>

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## Consolidated Statements of Changes in Equity (Continued)

	Note	Share capital and capital reserve €m	Share-based compensation reserve €m	Founder preferred shares dividend reserve €m	Translation reserve €m	Cash flow hedging reserve €m	Accumulated deficit reserve €m	Equity attributable to owners of the parent €m	Non-controlling interests €m	Total Equity €m
<b>Balance at January 1, 2018</b>		<b>1,623.7</b>	<b>2.9</b>	<b>493.4</b>	<b>83.2</b>	<b>(3.0)</b>	<b>(347.6)</b>	<b>1,852.6</b>	<b>—</b>	<b>1,852.6</b>
Change in accounting policy (IFRS 9)		—	—	—	—	—	18.1	18.1	—	18.1
<b>Restated Equity as at January 1, 2018</b>		<b>1,623.7</b>	<b>2.9</b>	<b>493.4</b>	<b>83.2</b>	<b>(3.0)</b>	<b>(329.5)</b>	<b>1,870.7</b>	<b>—</b>	<b>1,870.7</b>
Profit/(loss) for the year		—	—	—	—	—	171.2	171.2	(0.7)	170.5
Other comprehensive income/(loss) for the period		—	—	—	5.6	11.5	(9.6)	7.5	—	7.5
<b>Total comprehensive income/(loss) for the period</b>		<b>—</b>	<b>—</b>	<b>—</b>	<b>5.6</b>	<b>11.5</b>	<b>161.6</b>	<b>178.7</b>	<b>(0.7)</b>	<b>178.0</b>
Founder Preferred Shares Annual Dividend Amount	27	120.8	—	(120.8)	—	—	—	—	—	—
Vesting of Non-Executive Restricted Stock award	8	0.6	(0.8)	—	—	—	—	(0.2)	—	(0.2)
Issue of ordinary shares	8	3.4	(3.3)	—	—	—	—	0.1	—	0.1
Share based payment charge	8	—	13.0	—	—	—	—	13.0	—	13.0
Reclassification of awards for settlement of tax liabilities	26	—	(2.4)	—	—	—	—	(2.4)	—	(2.4)
Non-controlling interests on acquisition of subsidiary	14	—	—	—	—	—	—	—	(0.1)	(0.1)
<b>Total transactions with owners, recognized directly in equity</b>		<b>124.8</b>	<b>6.5</b>	<b>(120.8)</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>10.5</b>	<b>(0.1)</b>	<b>10.4</b>
<b>Balance as of December 31, 2018</b>		<b>1,748.5</b>	<b>9.4</b>	<b>372.6</b>	<b>88.8</b>	<b>8.5</b>	<b>(167.9)</b>	<b>2,059.9</b>	<b>(0.8)</b>	<b>2,059.1</b>

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**Consolidated Statements of Changes in Equity (continued)**

	Note	Share capital and capital reserve €m	Share-based compensation reserve €m	Founder preferred shares dividend reserve €m	Translation reserve €m	Cash flow hedging reserve €m	Accumulated deficit €m	Equity attributable to owners of the parent €m	Non-controlling interests €m	Total Equity €m
<b>Balance at January 1, 2019</b>		<b>1,748.5</b>	<b>9.4</b>	<b>372.6</b>	<b>88.8</b>	<b>8.5</b>	<b>(167.9)</b>	<b>2,059.9</b>	<b>(0.8)</b>	<b>2,059.1</b>
Change in accounting policy (IFRS 16)		—	—	—	—	—	31.3	31.3	—	31.3
<b>Restated Equity as at January 1, 2019</b>		<b>1,748.5</b>	<b>9.4</b>	<b>372.6</b>	<b>88.8</b>	<b>8.5</b>	<b>(136.6)</b>	<b>2,091.2</b>	<b>(0.8)</b>	<b>2,090.4</b>
Profit/(loss) for the year		—	—	—	—	—	154.0	154.0	(0.4)	153.6
Other comprehensive income/(loss) for the year		—	—	—	6.0	(21.7)	(29.2)	(44.9)	—	(44.9)
<b>Total comprehensive income/(loss) for the year</b>		<b>—</b>	<b>—</b>	<b>—</b>	<b>6.0</b>	<b>(21.7)</b>	<b>124.8</b>	<b>109.1</b>	<b>(0.4)</b>	<b>108.7</b>
Founder Preferred Shares Annual Dividend Amount	27	2.5	—	(2.5)	—	—	—	—	—	—
Vesting of Non-Executive Restricted Stock award	8	—	(0.8)	—	—	—	—	(0.8)	—	(0.8)
Issue of ordinary shares	25	355.5	(1.3)	—	—	—	—	354.2	—	354.2
Listing and share transaction costs	25	(11.1)	—	—	—	—	—	(11.1)	—	(11.1)
Share based payment charge	8	—	14.9	—	—	—	—	14.9	—	14.9
Reclassification of awards for settlement of tax liabilities	26	—	0.4	—	—	—	—	0.4	—	0.4
<b>Total transactions with owners, recognized directly in equity</b>		<b>346.9</b>	<b>13.2</b>	<b>(2.5)</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>357.6</b>	<b>—</b>	<b>357.6</b>
<b>Balance as of December 31, 2019</b>		<b>2,095.4</b>	<b>22.6</b>	<b>370.1</b>	<b>94.8</b>	<b>(13.2)</b>	<b>(11.8)</b>	<b>2,557.9</b>	<b>(1.2)</b>	<b>2,556.7</b>

The accompanying notes are an integral part of these consolidated financial statements.

## Consolidated Statements of Cash Flows

	Note	Year ended December 31, 2019 €m	Year ended December 31, 2018 €m	Year ended December 31, 2017 €m
<b>Cash generated from operations before tax and exceptional items</b>	32	<b>376.9</b>	<b>397.6</b>	<b>358.5</b>
Cash flows relating to exceptional items		(15.9)	(43.4)	(99.5)
Tax paid		(45.6)	(32.9)	(65.2)
<b>Net cash flows from operating activities</b>		<b>315.4</b>	<b>321.3</b>	<b>193.8</b>
<b>Cash flows from investing activities</b>				
Purchase of subsidiaries, net of cash acquired	14	(1.5)	(471.6)	—
Purchase of property, plant and equipment and intangibles		(47.3)	(41.6)	(42.6)
Purchase of investments	34	(25.0)	—	—
<b>Net cash used in investing activities</b>		<b>(73.8)</b>	<b>(513.2)</b>	<b>(42.6)</b>
<b>Cash flows from financing activities</b>				
Proceeds from issuance of Ordinary Shares	25	354.1	0.1	—
Share issuance costs	25	(11.1)	—	—
Proceeds from new loans and notes		2.0	355.6	1,470.5
Repayment of loan principal		(22.2)	(5.9)	(1,469.5)
Payment of lease liabilities		(21.8)	—	(1.6)
Payment of financing fees		—	(2.6)	(16.7)
Repurchase of ordinary shares		—	—	(177.6)
Interest paid		(48.4)	(45.3)	(48.8)
Interest received		2.4	0.2	0.3
Other financing cash flows		(3.6)	0.6	1.6
<b>Net cash provided by/(used in) financing activities</b>		<b>251.4</b>	<b>302.7</b>	<b>(241.8)</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>493.0</b>	<b>110.8</b>	<b>(90.6)</b>
Cash and cash equivalents at beginning of period	20	327.6	219.2	329.5
Effect of exchange rate fluctuations		4.2	(2.4)	(19.7)
<b>Cash and cash equivalents at end of period</b>	20	<b>824.8</b>	<b>327.6</b>	<b>219.2</b>

The accompanying notes are an integral part of these consolidated financial statements.

## Notes to the Consolidated Financial Statements

### 1) General information

Nomad Foods Limited (the "Company" or "Nomad") was incorporated in the British Virgin Islands on April 1, 2014. The address of Nomad's registered office is Nemours Chambers, Road Town, Tortola, British Virgin Islands. The Company is domiciled for tax in the United Kingdom.

Nomad Foods Limited (NYSE: NOMD) is a leading frozen foods company building a global portfolio of best-in-class food companies and brands within the frozen category and in the future across the broader food sector. Nomad produces, markets and distributes brands in 17 countries and has the leading market share in Western Europe. The Company's portfolio of leading frozen food brands includes *Birds Eye*, *Iglo*, *Findus*, *Goodfella's* and *Aunt Bessie's*.

### 2) Basis of preparation

The consolidated financial statements of Nomad and its subsidiaries (the "Company" or "Nomad") have been prepared in accordance with International Financial Reporting Standards issued by the International Accounting Standards Board. These consolidated financial statements are also in accordance with International Financial Reporting Standards as adopted by the European Union. References to "Iglo" or "Findus" refer to the groups of companies separately acquired by Nomad in June and November 2015, respectively.

### Impact of adoption of IFRS 16

On January 1, 2019, the Company adopted IFRS 16 Leases, which sets out the principles for the recognition, measurement, presentation and disclosure of leases and replaces IAS 17 'Leases'. The standard introduces a single lessee accounting model and requires a lessee to recognize assets and liabilities for all leases with a term of more than 12 months, unless the underlying asset is of low value. The Standard also contains enhanced disclosure requirements for lessees.

The Company has applied the modified retrospective approach allowed by IFRS 16 and so comparative figures have not been restated. All right-of-use assets have been measured at the amount of the lease liability on adoption (adjusted for any prepaid or accrued lease expenses). The Company has also elected to apply the practical expedients in IFRS 16 for short-term leases and leases for which the underlying asset is of low value. The weighted-average incremental borrowing rate for lease liabilities initially recognized as of January 1, 2019, was 2.9%, with the exception of a significant lease of a cold store in Bjuv, Sweden for which a rate of 6.3% has been used to reflect the specific nature of the asset and length of the lease term.

As a result of the adoption of this standard, the Company has capitalized eligible operating leases under the classification right-of-use assets within property, plant & equipment. The total amount capitalized on transition is €83.9 million. The discounted present value of lease payments has also been recognized as a lease payable of €120.8 million.

As a consequence of transition, the onerous lease recognized in relation to a factory and cold store in Bjuv, Sweden as presented in Note 24 of €66.9 million has been released as an adjustment to opening equity attributable to the parent as at January 1, 2019. The value of the right-of-use-asset recognized in relation to this lease has been subject to an impairment review on transition so that the value of the asset recognized is €35.6 million less than the lease payable. The net effect of these two adjustments of €31.3 million has been recognized as an increase in equity attributable to the parent.

Payments for leases recognized in the Statement of Financial Position have become financing cash flows. As a result, the Company has seen a reduction in operating cash outflows, with a corresponding increase in financing cash outflows, based on leases in place as of the transition date.

Within the Statement of Profit or Loss, a straight-line depreciation expense on the right-of-use-asset over the life of the lease and a front-loaded interest expense on the lease payable has replaced the operating lease expense. The actual impact of IFRS 16 on our profits depends not only on the lease agreements in effect at the time of adoption but also on new lease agreements entered into or terminated in 2019. The profit before tax for the year ended December 31, 2019, has been negatively impacted by €2.8 million as a result of adopting the new rules. Adjusted EBITDA for the year ended December 31, 2019, has increased by €17.7 million as the operating lease expenses were previously included within Adjusted EBITDA but the depreciation on the right-of-use-asset for the year ended December 31, 2019, of €16.1 million as well as the interest on the lease liability are excluded. The impact of IFRS 16 adversely impacted EPS by €0.01.

Summary of adjustments to the Statement of Financial Position arising from application of IFRS 16 as of January 1, 2019:

	Opening balance as reported	Transition adjustments	Opening balance IFRS 16
	€m	€m	€m
Property, plant and equipment	348.8	83.9	432.7
Current loans and borrowings	(21.4)	(20.4)	(41.8)
Non-current loans and borrowings	(1,742.9)	(100.4)	(1,843.3)
Current provisions	(44.3)	3.6	(40.7)
Non-current provisions	(69.4)	63.3	(6.1)
Trade and other payables	—	1.3	1.3
Accumulated deficit reserve	167.9	(31.3)	136.6

**Reconciliation from operating lease commitments to lease liability**

On adoption of IFRS 16, the group recognized lease liabilities in relation to leases which had previously been classified as 'operating leases' under the principles of IAS 17 Leases. These liabilities were measured at the present value of the remaining lease payments, discounted using the lessee's incremental borrowing rate as of January 2019.

	€m
<b>Operating lease commitments disclosed as at December 31, 2018</b>	<b>181.6</b>
Discounted using the incremental borrowing rate at January 1, 2019	(54.9)
Less: short-term and low value leases recognized on a straight-line basis as expense	(2.0)
Less: contracts assessed as service agreements	(8.1)
Add: adjustments as a result of a different treatment of extension and termination options	4.2
<b>Lease liability as at January 1, 2019</b>	<b>120.8</b>

**Amended standards early adopted**

The Company has elected to early adopt the 'Amendments to IAS 39 and IFRS 7 Interest Rate Benchmark Reform' issued in September 2019. In accordance with the transition provisions, the amendments have been adopted retrospectively to hedging relationships that existed at the start of the reporting period and to the amount accumulated in the cash flow hedge reserve at that date.

The amendments provide temporary relief from applying specific hedge accounting requirements to hedging relationships directly affected by IBOR reform. The reliefs have the effect that IBOR reform should not generally cause hedge accounting to terminate. However, any hedge ineffectiveness continues to be recorded in the Statement of Profit or Loss.

In summary, the reliefs provided by the amendments that apply are:

- When considering the 'highly probable' requirement, the Company has assumed that the LIBOR interest rate on which our hedged debts are based does not change as a result of IBOR reform.
- In assessing whether the hedge is expected to be highly effective on a forward-looking basis, the Company has assumed that the LIBOR interest rate on which the cash flows of the hedged debt and the interest rate swap that hedges it are based is not altered by IBOR reform.
- The Company will not discontinue hedge accounting during the period of IBOR-related uncertainty solely because the retrospective effectiveness falls outside the required 80-125% range.
- The Company has not recycled the cash flow hedge reserve relating to the period after the reforms are expected to take effect.

Note 33 provides the required disclosures of the uncertainty arising from IBOR reform for hedging relationships for which the reliefs have been applied.

## Other

The Company's financial statements and notes are presented in the reporting currency of millions of Euros. All financial information has been rounded to the nearest €0.1 million, except where otherwise indicated.

The consolidated financial statements were approved for issuance by the Board of Directors of Nomad Foods Limited on February 25, 2020. The Directors have, at the time of approving the financial statements, a reasonable expectation that Nomad has adequate resources to continue in operational existence for the foreseeable future given the cash funds available and the current forecast cash outflows. Thus, Nomad continues to adopt the going concern basis of accounting in preparing the financial statements.

### 3) Accounting policies

The accounting policies set out below have, unless otherwise stated, been applied consistently. Judgments made by the Directors in the application of these accounting policies that have a significant effect on the financial statements and key sources of estimation uncertainty are discussed in Note 4.

#### 3.1 Measurement convention

The financial statements are prepared on the historical cost basis with the exception of derivative financial instruments, business combinations, share based payments, and founder preferred shares which are stated at fair value.

#### 3.2 Business combination

The Company uses the acquisition method to account for business combinations. The consideration transferred for the acquisition of a subsidiary is the fair value of the assets transferred, the liabilities incurred and the equity interest issued by the Company. The consideration transferred includes the fair value of any asset or liability resulting from a contingent consideration arrangement. Identifiable assets acquired and liabilities and contingent liabilities assumed in a business combination are measured initially at their fair values at the acquisition date. Acquisition-related costs are expensed as incurred.

Non-controlling interests arise from business combinations in which the Company acquires less than a 100 per cent interest. Non-controlling interests are initially measured at either fair value or at the non-controlling interest's proportionate share of the fair value of the acquiree's identifiable net assets. Nomad determines on a transaction by transaction basis which measurement method is used.

The excess of the consideration transferred, the amount of any non-controlling interests in the acquiree and the acquisition-date fair value of any previous equity interest in the acquiree over the fair value of the identifiable net assets is recorded as goodwill.

Where selling shareholders have contractually agreed to indemnify Nomad Foods Limited for contingent liabilities, an indemnification asset is recognized equivalent to the fair value of the liability recognized by Nomad. The indemnification asset is deducted from consideration transferred for the business combination. The indemnification asset value will subsequently be revised where revisions are made to the value of the liability or where there are doubts over the ability to recover losses from the selling shareholders.

#### 3.3 Basis of consolidation

The consolidated financial statements include the accounts of the Company and its subsidiaries. Intercompany balances and transactions, and any unrealized income and expenses arising from intra-group transactions are eliminated. Accounting policies are applied consistently across the Company.

Subsidiaries are all entities (including structured entities) over which Nomad has control; directly or indirectly. The Company controls an entity when the Company is exposed to, or has rights to, variable returns from its involvement with the entity and has the ability to affect those returns through its power over the entity. Subsidiaries are fully consolidated from the date on which control is transferred to the Company. They are deconsolidated from the date that control ceases.

Where the Company owns less than a 100 per cent interest in a subsidiary, a non-controlling interest is recognized. The carrying amount of non-controlling interests is increased or decreased by the non-controlling interest's share of subsequent changes in equity and payments to the non-controlling interest. Total comprehensive income is attributed to the non-controlling interests even if this results in the non-controlling interests having a negative balance.

### **3.4 Foreign currency**

#### **i) Foreign currency transactions**

Transactions in foreign currencies (currencies other than the functional currency) are translated into the functional currency at the foreign exchange rate ruling at the date of the transaction. Monetary assets and liabilities denominated in foreign currencies are translated into the functional currency at the foreign exchange rate ruling the financial year end. Foreign exchange gains and losses resulting from the settlement of such transactions and from the translation of monetary assets and liabilities denominated in foreign currencies at year end exchange rates are generally recognized in profit or loss. They are deferred in equity if they relate to qualifying cash flow hedges, qualifying net investment hedges or are attributable to part of a net investment in a foreign operation.

Non-monetary assets and liabilities in a foreign currency are translated into the functional currency to establish historical cost, using the exchange rate at the date of the transaction. Non-monetary assets and liabilities denominated in foreign currencies that are stated at fair value are translated at foreign exchange rates ruling at the date the fair value was determined. Translation differences on assets and liabilities carried at fair value are reported as part of the fair value gain or loss.

The revenues and expenses of foreign operations are translated at an average rate for the period (unless this is not a reasonable approximation of the cumulative effect of the rates prevailing on the transaction dates, in which case income and expenses are translated at the dates of the transaction).

#### **ii) Assets and liabilities of foreign operations**

For the purposes of presenting consolidated financial statements, the assets and liabilities of foreign operations, including goodwill and fair value adjustments arising on consolidation, are translated at foreign exchange rates ruling at the financial year ended December 31, 2019 of £1:€1.17 (December 31, 2018: £1:€1.11, December 31, 2017: £1:€1.13). The revenues and expenses of foreign operations are translated at an average rate for the period where this rate approximates to the foreign exchange rates ruling at the dates of the transactions.

Foreign exchange gains and losses that relate to these assets and liabilities are presented in the Consolidated Statement of Profit or Loss within 'finance income or costs', except where hedge accounting applies.

#### **iii) Net investment in foreign operations**

Exchange differences arising from the translation of foreign operations and of related qualifying hedges are taken directly to the translation reserve within equity. They are realized through the Consolidated Statement of Profit or Loss upon disposal of the related foreign operation.

### 3.5 Goodwill

Goodwill represents amounts arising on acquisition of subsidiaries. Goodwill is the difference between the cost of the acquisition and the fair value of the net identifiable assets acquired.

Goodwill is stated at cost less any accumulated impairment losses. Gains and losses on the disposal of an entity include the carrying amount of goodwill relating to the entity sold.

Goodwill is not monitored below the operating segment. Goodwill is not amortized but is tested annually for impairment.

### 3.6 Other intangible assets

Intangible assets acquired separately are recorded at cost and those acquired as part of a business combination are recorded at fair value as at the date of acquisition.

#### i) Computer software

Capitalized software costs include the cost of acquired computer software licenses and costs that are directly associated with the design, construction and testing of such software where this relates to a major business system. Costs associated with identifying, sourcing, evaluating or maintaining computer software are recognized as an expense within other operating expenses as incurred.

The assets are stated at cost less accumulated amortization and impairment losses. Software costs are amortized by equal monthly installments over their estimated useful economic life of five to seven years once the software is capable of being brought into use.

#### ii) Brands

Based on the market position of the brands, the significant levels of investment in advertising and promoting the brands, and the fact that *Goodfella's* and *Aunt Bessie's* brands have been established for over 20 years, with the *Birds Eye*, *Iglo* and *Findus* brands established for over 50 years, the Directors consider that the brands have indefinite lives. Therefore these brands are not amortized, but instead held at historical cost less provision for any impairment.

Brands that are deemed to not have an indefinite life are being amortized by equal monthly installments within other operating expenses over the course of their remaining useful economic life.

#### iii) Customer relationships

Long standing Food Service customer relationships have been identified as intangible assets as part of the Findus Acquisition. These are deemed to not have an indefinite life and are being amortized by equal monthly installments within other operating expenses over 14 years.

### 3.7 Impairment of non-current assets

The carrying amounts of the Company's non-current assets are reviewed annually to determine whether there is any indication of impairment. If any such indication exists, the asset's recoverable amount is estimated. Impairment losses are recognized in the Consolidated Statement of Profit or Loss in the period in which they arise. For goodwill and assets that have an indefinite useful life an impairment review is performed at least annually.

Assets that are subject to amortization are reviewed for impairment whenever events or changes in circumstances indicate that the net carrying amount may not be recoverable. An impairment loss is recognized whenever the carrying amount of an asset or its cash-generating unit exceeds its recoverable amount.

i) Calculation of recoverable amount

Recoverable amount is the greater of fair value less costs to sell and value in use. In assessing value in use, the estimated future cash flows of the business are discounted to their present value using a discount rate that reflects current market assessments of the time value of money and the risks specific to the asset. For an asset that does not generate largely independent cash inflows, the recoverable amount is determined for the cash-generating unit to which the asset belongs.

ii) Allocation of impairment losses

Impairment losses recognized in respect of cash-generating units are allocated first to reduce the carrying amount of any goodwill allocated to cash-generating units, then to reduce the carrying amount of the other assets in the unit on a pro rata basis. A cash-generating unit is the smallest identifiable group of assets that generates cash inflows that are largely independent of the cash inflows from other assets or groups of assets.

iii) Reversals of impairment

An impairment loss in respect of goodwill is not reversed. In respect of other assets, an impairment loss is reversed when there is an indication that the impairment loss may no longer exist and there has been a change in the estimates used to determine the recoverable amount. An impairment loss is reversed only to the extent that the asset's carrying amount does not exceed the carrying amount that would have been determined, net of depreciation or amortization, if no impairment loss had been recognized.

### 3.8 Property, plant and equipment

i) Owned assets

Property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes the original purchase price of the asset and the costs attributable to bringing the asset to its working condition for its intended use.

Where parts of an item of property, plant and equipment have different useful lives, they are accounted for as separate items of property, plant and equipment.

ii) Leased assets

As a result of the adoption of IFRS 16, the Company has changed its accounting policy for leased assets. Until December 31, 2018, leases of property, plant and equipment where the Company, as a lessee, has substantially all the risks and rewards of ownership were classified as finance leases and all others as operating leases.

The Company leases various properties, equipment and cars. Since January 1, 2019, the Company assesses whether a contract is, or contains, a lease. A contract is, or contains, a lease if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

Where a contract contains both lease and non-lease components, the Group has elected to account for the contract as a single lease.

Leases are recognized as a right-of-use asset and a corresponding liability at the date at which the leased asset is available for use by the group. Each lease payment is allocated between the liability and finance cost. The finance cost is charged to profit or loss over the lease period so as to produce a constant periodic rate of interest on the remaining balance of the liability for each period. The right-of-use asset is classified within property, plant and equipment and is depreciated over the shorter of the asset's useful life or the lease term on a straight-line basis.

Assets and liabilities arising from a lease are initially measured on a present value basis. Lease liabilities are presented within loans and borrowings and include the net present value of expected lease payments, including those from extension options if the Company reasonably expects to exercise them. The lease payments are discounted using the interest rate implicit in the lease, if that rate can be determined, otherwise the Company's incremental borrowing rate is used. Right-of-use assets are measured at cost comprising the amount of the lease liability, adjusted for payments made or received before the commencement date, initial direct costs and restoration costs.

Payments associated with short-term leases and leases of low-value assets are recognized on a straight-line basis as an expense in profit or loss. Short-term leases are leases with a lease term of 12 months or less. Low-value assets primarily comprise IT equipment and small items of office furniture.

iii) Depreciation

Depreciation is charged to the Consolidated Statement of Profit or Loss on a straight line basis over the shorter of the lease term and the estimated useful lives of each part of an item of property, plant and equipment once the item is brought into use. Land is not depreciated. The estimated useful lives are as follows:

- Buildings 40 years
- Plant and equipment 5 to 14 years
- Computer equipment 3 to 5 years

The assets' residual values and useful lives are reviewed on a frequent basis.

### **3.9 Inventories**

Inventories are stated at the lower of cost and net realizable value. Cost is based on the weighted average principle and includes expenditure incurred in acquiring the inventories and bringing them to their existing location and condition. Inventories that are acquired through business combinations are fair valued at the time of acquisition. In the case of manufactured inventories and work in progress, cost includes an appropriate share of direct costs and overheads based on normal operating capacity. Provision is made for slow moving, obsolete and defective inventories.

### **3.10 Employee benefits**

i) Defined contribution plans

Obligations for contributions to defined contribution pension plans are recognized as an expense in the Consolidated Statement of Profit or Loss as incurred. Prepaid contributions are recognized as an asset to the extent that a cash refund or reduction in the future payments is available.

ii) Defined benefit plans

The Company's net obligation in respect of defined benefit pension plans and other post-employment benefits is calculated separately for each plan by estimating the amount of future benefit that employees have earned in return for their service in the current and prior periods. That net obligation is discounted to determine its present value. The calculation is performed by a qualified actuary using the projected unit credit method.

The current service cost of the defined benefit plan, recognized in the Consolidated Statement of Profit or Loss in staff costs included within Operating profit/(loss), except where included in the cost of an asset, reflects the increase in the defined benefit obligation resulting from employee service in the current year, benefit changes, curtailments and settlements.

Actuarial gains and losses arising from experience adjustments and changes in actuarial assumptions are charged or credited to equity in Other Comprehensive Income in the period in which they arise.

The net interest cost is calculated by applying the discount rate to the net balance of the defined benefit obligation and the fair value of plan assets. This cost is included in employee benefit expense in the Consolidated Statement of Profit or Loss.

Past service cost is recognized immediately.

iii) Share-based payment schemes

Employee benefits given through share-based payment schemes are discussed further in section 3.15 of this note.

### 3.11 Founder Preferred Shares

Nomad Foods issued Founder Preferred Shares to both TOMS Acquisition I, LLC and Mariposa Acquisition II, LLC (collectively the "Founder Entities") in connection with its initial public offering in April 2014. Holders of the Founder Preferred Shares are entitled to receive annual dividend amounts subject to certain performance conditions (the "Founder Preferred Shares Dividend Amount"). The instrument and its component parts were analyzed under IFRS 2. The Company intends that any future Founder Preferred Shares Annual Dividend Amount will be equity settled. Accordingly, the Founder Preferred Shares Annual Dividend Amount as of June 1, 2015, of €531.5 million (the "Founder Preferred Shares Dividend reserve") was classified as equity and no further revaluations will be required or recorded.

Should a Founder Preferred Share Annual Dividend Amount become due and payable, the market value of any dividend paid will be deducted from the Founder Preferred Shares Dividend reserve, with any excess deducted from the accumulated profit/(deficit) reserve within equity.

### 3.12 Provisions

Provisions are recognized when the Company has a legal or constructive present obligation as a result of a past event and it is probable that the Company will be required to settle that obligation. Provisions are measured at the Directors' best estimate of the expenditure required to settle the obligation at the financial year end date and are discounted to present value where the effect is material.

Where it is not possible to make a reliable estimate of the estimated financial effect of a provision, appropriate disclosure of the resulting contingent liability is made, but no provision is recognized.

The Company has concluded its discussions with the tax authorities in one of its markets regarding the treatment of the acquisition of the Iglo Group in 2006 by the previous owners. The Company has an indemnity in respect of this tax issue and expects to recover the amount due during 2020.

### 3.13 Financial instruments

Financial assets and liabilities are recognized in the Company's Statement of Financial Position when the Company becomes a party to the contractual provisions of the instrument.

i) Trade receivables

Trade receivables are amounts due from customers for goods sold when control of the products has transferred, being when the products are delivered in accordance with the contractual arrangements. At this point, there is no unfulfilled performance obligation that could affect the customer's acceptance of the product, except for returns due to quality. The Company holds the trade receivables with the objective of collecting the contractual cash flows and so they are subsequently measured at amortized cost using the effective interest method, less any loss allowance. Since trade receivables are due within one year, this equates to initial carrying value less any loss allowance.

To assist in managing operating cash flow, we may enter into non-recourse factoring arrangements with certain receivables whereby we sell specific account receivables on a true sale basis to one or more external financial institutions. These trade receivables are sold on a true sale basis when we have surrendered control over the related assets. Up to the point of sale, these receivables are treated as held for sale and measured at fair value through Profit or Loss. Under the terms of the contractual arrangements, the Company may continue to collect the cash from the customer receivables sold, albeit acting solely as a collecting agent on behalf of the purchaser of receivables. Any cash received from customers which is due to be paid to the agent is presented as a financial liability in the Statement of Financial Position and as a financing activity within the Statement of Cash Flows. Factoring fees associated with the sale of factored receivables were minimal for the year ended December 31, 2019 (December 31, 2018: €0.5 million, December 31, 2017: minimal). See Note 18.

The Company applies the IFRS 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade receivables. Trade receivables are grouped by days past due. Expected loss rates are based on historical credit losses experienced in each market as well as forward looking information where this is significant. Trade receivables are written off when there is no reasonable expectation of recovery. Appropriate allowances for expected credit losses and estimated irrecoverable amounts are recognized in the Consolidated Statement of Profit or Loss.

Trade receivables are presented net of associated contract liabilities, referred to as 'trade terms'.

ii) Cash and cash equivalents

Cash and cash equivalents comprise of cash balances and deposits and are measured at amortized cost. Deposits held in money market funds are measured at fair value through Profit or Loss as the cash flows do not only represent principal and interest.

iii) Loans and borrowings

a. Valuation

Interest bearing borrowings are recognized initially at fair value less attributable transaction costs.

Subsequent to initial recognition, interest bearing loans and borrowings are stated at amortized cost with any difference between cost and redemption value being recognized in the Consolidated Statement of Profit or Loss over the expected period of the borrowings.

b. Capitalization of transaction costs

Fees paid on the establishment of loan facilities are recognized as transaction costs of the loan to the extent that it is probable that some or all of the facility will be drawn down. In this case, the fee is deferred until the draw-down occurs.

iv) Trade payables

Trade payables are measured at initial recognition at fair value and are subsequently measured at amortized cost using the effective interest method. Since trade payables are largely due within one year, this equates to initial carrying value.

v) Derivative financial instruments and hedge accounting

Derivative financial instruments are recognized at fair value. When a derivative financial instrument is not designated in a hedge accounting relationship, all changes in its fair value are recognized immediately in the Consolidated Statement of Profit or Loss. However, where derivatives qualify for hedge accounting, recognition of any resultant gain or loss depends on the nature of the item being hedged.

The fair value of all financial derivative instruments (including but not limited to forward foreign exchange contracts, currency swaps and cross currency interest rates swaps), is determined per market standard using forward foreign exchange and interest rates at the balance sheet date, with the resulting value discounted back to present value.

Cross currency interest rate swaps can be entered into in order to mitigate perceived risks to foreign exchange translation risk and interest rate risk.

The Company applies the hedge accounting requirements of IAS 39 to all hedging relationships.

a. Cash flow hedges

Where a derivative financial instrument is designated as a hedge of the cash flow of a recognized asset or liability, (including a highly probable forecast transaction) the effective part of any gain or loss on the derivative financial instrument is recognized directly in the cash flow hedging reserve. Any ineffective portion of the hedge is recognized immediately in the Consolidated Statement of Profit or Loss.

When a hedging instrument expires or is sold, exercised or otherwise terminated, or the entity revokes designation of the hedge relationship but the hedged forecast transaction is still expected to occur, the cumulative gain or loss at that point remains in equity and is recognized when the transaction occurs. If the hedged transaction is no longer expected to take place, the cumulative unrealized gain or loss recognized in equity is recognized in the Consolidated Statement of Profit or Loss immediately.

b. Net investment hedges

Foreign currency differences arising on the retranslation of a financial liability designated as a hedge of a net investment in a foreign operation are recognized in Other Comprehensive Income to the extent that the hedge is effective, and are presented in the translation reserve within equity. To the extent that the hedge is ineffective, such differences are recognized in the Consolidated Statement of Profit or Loss. When the hedged net investment is disposed of, the relevant amount in the translation reserve is transferred to the Consolidated Statement of Profit or Loss as part of the gain or loss on disposal.

vi) Short-term investments

The Company invests surplus cash positions in short-term investments to manage liquidity and credit risk. Short-term investments are held within managed investment funds and are measured at fair value. All changes in fair value are recognized immediately in the Consolidated Statement of Profit or Loss. The short-term investments are held within managed investment funds which invest in supply chain financing receivables, the creditworthiness of which are enhanced by an insurance wrapper as provided by established insurance companies with a long-term credit rating of at least A.

Short-term investments are valued using inputs that are derived principally from or corroborated by observable market data.

### 3.14 Revenue from contracts with customers

The Company manufactures and sells a range of frozen foods to retail, wholesale and Food Service markets. Revenue is recognized when control of the products has transferred, being when the products are delivered to the customer in accordance with the contractual arrangements. At this point, there is no unfulfilled performance obligation that could affect the customer's acceptance of the product, except for returns due to quality. A provision for product return allowances, which is estimated based upon the Company's historical performance and management's experience, is recorded as a reduction of sales in the same period that the revenue is recognized. Revenue excludes sales taxes and intra-company sales.

Products are often sold with variable pricing arrangements, including payment discounts, trade promotions and slotting fees. Discounts given by the Company include rebates, price reductions and incentives to customers, promotional couponing and trade communication costs. Trade promotions consist of pricing allowances, merchandising funds and customer coupons, which are offered through various programs to customers and consumers. Certain retailers require the payment of slotting fees to obtain space for the Company's products on the retailers' store shelves.

Where variable pricing arrangements are in place, revenue is only recognized to the extent that it is highly probable that the amount recognized is unlikely to be reversed. Accumulated experience is used to estimate and provide for the discounts. Revenue is only recognized to the extent that it is highly probable that a significant reversal will not occur. Accruals for expected pay-

outs under these programs are collectively known as 'trade terms' and are included within trade and other receivables or within trade and other payables in the Consolidated Statement of Financial Position. No element of financing is deemed present as the sales are made in line with market practice and accruals are typically settled within twelve months of the sale.

### **3.15 Share based payments**

The Nomad Foods Long-term Incentive Plan known as the (the "Management Share Awards"), which incorporates an annual Non-Executive Directors Restricted Stock Scheme, falls within the provisions of IFRS 2 "Share-based Payment" and awards under the Management Share Awards represent equity settled share based payments. A charge is taken to the Consolidated Statement of Profit or Loss for the difference between the fair value of the shares at grant date and the amount subscribed, spread over the vesting period.

Share based payment arrangements in which Nomad receives goods or services as consideration for its own equity instruments are accounted for as equity-settled share based payment transactions, regardless of how the equity instruments are obtained by Nomad.

The grant date fair value of share-based payment awards granted to any Director or employee is recognized as an expense, with a corresponding increase in equity, over the period that any Director or employee becomes unconditionally entitled to the awards.

The fair value of the awards granted is measured using a valuation model, taking into account the terms and conditions upon which the awards were granted. The amount recognized as an expense is adjusted to reflect the actual number of awards for which the related service and non-market vesting conditions are expected to be met, such that the amount ultimately recognized as an expense is based on the number of awards that do meet the related service and non-market performance conditions at the vesting date. For share-based payment awards with non-vesting conditions, the grant date fair value of the share-based payment is measured to reflect such conditions and there is no true-up for differences between expected and actual outcomes.

See Note 8(b) for further information on the Company's share-based payment arrangements and details of the valuation model used.

### **3.16 Interest income**

Interest income is recognized in the Consolidated Statement of Profit or Loss on an accruals basis using the effective interest method.

### **3.17 Expenses**

#### **i) Operating lease payments**

Payments associated with short-term leases, leases of low-value assets, variable lease payments and leases assessed as service agreements are recognized on a straight-line basis as an expense in profit or loss and presented as "operating leases". Lease incentives received are recognized on a straight line basis in the Consolidated Statement of Profit or Loss as an integral part of the total lease expense.

#### **ii) Borrowing costs**

Unless capitalized as part of the cost of borrowing (see Note 3.13(iii)), borrowing costs are recognized in the Consolidated Statement of Profit or Loss in the period in which they are incurred.

iii) Exceptional items

The separate reporting of exceptional items which are presented as exceptional within the relevant Consolidated Statement of Profit or Loss category, helps provide an indication of the Company's underlying business performance. Exceptional items have been identified and presented by virtue of their size, nature or incidence. In determining whether an event or transaction is exceptional, management considers quantitative as well as qualitative factors such as the frequency or predictability of occurrence. Exceptional items comprise restructuring costs, impairments or reversal of impairments of intangible assets, operational restructuring, integration and acquisition costs relating to new acquisitions, implementation of strategic opportunities and other significant items (see Note 7).

iv) Research and development

Expenditure on research activities is recognized in the Consolidated Statement of Profit or Loss as an expense as incurred.

**3.18 Taxation**

Tax on the profit or loss for the year comprises current and deferred tax. Tax is recognized in the Consolidated Statement of Profit and Loss except to the extent that it relates to items recognized in Other Comprehensive Income, in which case it is recognized within the Statement of Other Comprehensive Income.

Current tax is the expected tax payable on the taxable income for the year, using tax rates enacted or substantively enacted at the financial year end date, and any adjustment to tax payable in respect of previous years. Where tax exposures can be quantified, an accrual for uncertain tax positions is made based on the best estimates and management's judgments. Given the inherent uncertainties in assessing the outcomes of these exposures (which can sometimes be binary in nature), the Company could in future periods experience adjustments to these accruals.

Deferred tax is provided on temporary differences between the carrying amounts of assets and liabilities recognized for financial reporting purposes and the amounts used for taxation purposes on an undiscounted basis. The following temporary differences are not provided for: the initial recognition of goodwill; the initial recognition of assets or liabilities that affect neither accounting nor taxable profit other than in a business combination, and differences relating to investments in subsidiaries to the extent that they will probably not reverse in the foreseeable future. The amount of deferred tax provided is based on the expected manner of realization or settlement of the carrying amount of assets and liabilities, using tax rates enacted or substantively enacted at the financial year end date.

A deferred tax asset is recognized only to the extent that it is probable that future taxable profits will be available against which the asset can be utilized.

**3.19 Segment reporting**

The Chief Operating Decision Maker ("CODM") has been determined to be the Chief Executive Officer as he is primarily responsible for the allocation of resources to the segments and the assessment of performance of the segments.

Nomad's operations are organized into one operating unit, "Frozen", which comprises all the brands, as well as the factories, private label business units and certain corporate overheads. The CODM primarily uses "Adjusted EBITDA", disclosed in Note 5, as the key measure of the segment's results. Adjusted EBITDA is EBITDA adjusted to exclude, when they occur, the impacts of exited markets, acquisition purchase price adjustments, chart of account ("CoA") alignments and exceptional items such as restructuring charges, goodwill and intangible asset impairment charges and other unusual or non-recurring items. In addition, we exclude other adjustments such as the impact of share based payment expenses and related employer payroll taxes, and non-operating M&A related costs, because we do not believe they are indicative of our normal operating costs, can vary significantly in amount and frequency, and are unrelated to our underlying operating performance.

EBITDA, disclosed in Note 5, is defined as profit/(loss) for the period before taxation, net financing costs, depreciation and amortization.

### **3.20 Onerous contracts provisions**

Where the costs of fulfilling a contract exceed the economic benefits that the Company expects to receive from it, an onerous contract provision is recognized for the net unavoidable costs. In estimating the net unavoidable costs, management estimate foreseeable income that may be received and offset this against the minimum future cash outflows from fulfilling the contract. All cash flows are discounted at an appropriate discount rate.

### **3.21 Unfavorable contracts**

Unfavorable contracts recognized from business combinations in relation to leases are classified as a liability, discounted and recognized over the term of the underlying contract as a reduction in the associated expense. As a result of the adoption of IFRS 16 *Leases*, unfavorable contracts are no longer recognized where the contract falls into the scope of this standard.

### **3.22 IFRSs not yet adopted**

At the date of authorization of these financial statements, there are no Standards and Interpretations relevant to the Company which are in issue but not yet effective.

## **4) Critical accounting estimates and judgments**

The preparation of financial statements in accordance with IFRS requires the use of judgment in applying the accounting policies and estimation.

Significant judgments are made in the process of applying accounting policies for Business Combinations that have a significant effect on the amounts reported in the consolidated financial statements. The Company is required to recognize separately, at the acquisition date, the identifiable assets, liabilities and contingent liabilities acquired or assumed in a business combination at their fair values. This involves judgment over whether intangible assets can be separately identified.

Information about accounting estimates and assumptions that have significant effects on the amounts reported in the consolidated financial statements is as follows:

### **a) Discounts and trade promotions**

Discounts given by the Company include rebates, price reductions and incentives given to customers, promotional couponing and trade communication costs. Each customer has a unique agreement that is governed by a combination of observable and unobservable performance conditions.

Trade promotions comprise of amounts paid to retailers for programs designed to promote Company products and include pricing allowances, merchandising funds and customer coupons, which are offered through various programs to customers and consumers. The ultimate costs of these programs can depend upon retailer performance and is the subject of significant management estimates. The estimated ultimate cost of the program is based upon the programs offered, timing of those offers, estimated retailer performance based on history, management's experience and current economic trends.

At each financial year end date, any discount or trade promotion expense incurred but not yet invoiced is estimated and accrued for. In certain cases, the estimate for discounts and trade promotions requires the use of forecast information for future trading periods and therefore a degree of estimation uncertainty exists. These estimates are sensitive to variances between actual results and forecasts. The estimate is based on accumulated experience and the principle that revenue is only recognized to the extent that it is highly probable that a significant reversal will not occur.

The accruals are presented as 'trade terms' and offset against trade receivables due to the same customer, or as trade term payables where there is no receivable to be offset. The balance of the reduction in trade receivables for trade terms as of December 31, 2019 is disclosed in Note 18 and the balance classified as a trade term payable is disclosed in Note 22. Management use judgment when considering when accruals can be released.

**b) Business combinations**

The Company is required to recognize separately, at the acquisition date, the identifiable assets, liabilities and contingent liabilities acquired or assumed in a business combination at their fair values. This involves an estimate of fair value of all assets and liabilities acquired. Such estimates are based on valuation techniques, which require considerable estimation in forecasting future cash flows and developing other assumptions. These estimates are based on information available on the acquisition date and assumptions that have been deemed reasonable by management. The following estimates and assumptions can materially affect our financial position and profit:

- The fair value and expected useful economic life of acquired intangible and tangible assets that are subject to depreciation or amortization in future periods.
- Future changes to the assumptions over forecast future profitability used in estimating the value of intangible assets and goodwill may result in additional expenses or income.
- Future changes to the assumptions used in estimating the value of uncertain tax positions may result in additional expenses or income.

**c) Carrying value of goodwill and brands**

Determining whether goodwill and brands are impaired requires an estimation of the value in use of the cash generating unit to which goodwill and brands have been allocated. The value in use calculation requires the entity to estimate the future cash flows expected to arise from the cash generating unit and a suitable discount rate in order to calculate present value. Details of impairment reviews are provided in Note 13.

**d) Employee benefit obligation**

The Group operates a number of defined benefit pension schemes and post-employment benefit schemes which are valued by estimating the amount of future benefit that employees have earned in return for their service in the current and prior periods. Each Scheme has an actuarial valuation performed and is dependent on a series of assumptions. See Note 23 for details of these assumptions and a sensitivity analysis on material assumptions.

**e) Uncertain tax positions**

Where tax exposures can be quantified, an accrual for uncertain tax positions is made based on best estimates and judgments with regard to the amounts expected to be paid to the relevant tax authority. Given the inherent uncertainties in assessing the outcomes of these exposures (which can sometimes be binary in nature), the Company could in future periods experience adjustments to these accruals. The factors considered include the progress of discussions with the tax authorities and the level of documentary support for historical positions taken by previous owners.

**f) Fair value of derivative financial instruments.**

Note 34 includes details of the fair value of the derivative instruments that the Company holds at each balance sheet period. Management has estimated the fair value of these instruments by using valuations based on discounted cash flow calculations.

**g) Share-based payments**

At the end of each reporting period, the Company, in estimating its share-based payment charge, assesses and revises its estimates of the number of interests that are expected to vest based on the non-market vesting conditions. Note 8b contains details of these assumptions and of the valuation model used.

**5) Segment reporting**

Nomad has one reporting and operating segment, "Frozen", reflected in the segment presentation below for the periods presented. The CODM primarily uses ("Adjusted EBITDA"), disclosed in Note 3.19, as the key measure of the segment's results, which is considered non-IFRS financial information.

**Segment Adjusted EBITDA**

		Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	Note	€m	€m	€m
<b>Profit for the period</b>		<b>153.6</b>	<b>170.5</b>	<b>136.5</b>
Taxation		56.7	56.6	32.0
Net financing costs		73.2	56.0	74.4
Depreciation and amortization		68.3	46.3	42.4
<b>EBITDA</b>		<b>351.8</b>	<b>329.4</b>	<b>285.3</b>
Acquisition purchase price adjustments		—	5.7	—
Exceptional items	7	54.5	17.7	37.2
Other add-backs		25.7	23.6	5.6
<b>Adjusted EBITDA</b>		<b>432.0</b>	<b>376.4</b>	<b>328.1</b>

Acquisition purchase price adjustments relate to the reversal of the non-cash increase applied to inventory acquired in business combinations to value it at fair value as opposed to cost.

Other add-backs include the elimination of share-based payment expense and related employer payroll expense of €22.4 million (2018: €14.7 million, 2017: €2.6 million) and elimination of non-operating M&A related costs, professional fees and transaction costs of €3.3 million (2018: €8.9 million, 2017: €3.0 million). We exclude these costs because we do not believe they are indicative of our normal operating costs, can vary significantly in amount and frequency, and are unrelated to our underlying operating performance.

No information on segment assets or liabilities is presented to the CODM.

**Product information**

Management considers the products it sells belong to one category, being "Frozen".

## Geographical information

### External revenue by geography

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
United Kingdom	712.5	585.4	411.9
Italy	394.1	383.6	371.4
Germany	329.6	310.2	300.3
Sweden	175.7	192.7	208.0
France	176.6	174.1	170.0
Norway	120.4	122.5	123.3
Austria	108.2	102.4	96.7
Spain	79.5	76.7	81.2
Rest of Europe	227.7	225.2	193.8
<b>Total external revenue by geography</b>	<b>2,324.3</b>	<b>2,172.8</b>	<b>1,956.6</b>

### Non-current assets by geography

	December 31, 2019	December 31, 2018
	€m	€m
United Kingdom	131.3	141.5
Germany	124.9	121.8
Italy	68.2	52.5
Sweden	51.1	26.5
Norway	29.6	14.3
France	17.2	17.0
Rest of Europe	56.0	52.4
<b>Total non-current assets by geography</b>	<b>478.3</b>	<b>426.0</b>

Non-current assets exclude deferred tax assets, goodwill and brands which are not bound to one geographical area and as explained in Note 2, as of January 1, 2019, include leased assets resulting in a significant increase in the year ended December 31, 2019.

## 6) Operating profit

Operating profit is stated after charging:

	Note	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
		€m	€m	€m
Staff costs	8	308.6	299.7	257.4
Depreciation of property, plant and equipment (1)	12	59.7	39.3	35.9
Impairment of property, plant and equipment	12	0.1	—	0.3
Amortization of software and brands	13	8.6	7.0	6.5
Operating lease charges <sup>(1)</sup>		4.5	18.5	15.0
Exchange (gains)/losses		(14.6)	2.9	(1.2)
Research & development expenditure		18.9	15.5	15.4
Inventories recognized as an expense within cost of goods sold		1,536.0	1,410.0	1,273.3

(1) As a result of the adoption of IFRS 16 *Leases* on January 1, 2019, which is explained in Note 2, the majority of leases have been capitalized and are being depreciated. Expenses relating to leases that are not capitalized continue to be shown within Operating Profit.

## 7) Exceptional items

Exceptional items are made up as follows:

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
Implementation of strategic opportunities (1)	—	—	18.8
Supply chain reconfiguration (2)	(3.6)	1.2	14.0
Findus Group integration expenses (3)	3.5	10.4	15.1
Expenses related to transactions (4)	—	—	3.2
Brexit (5)	1.6	—	—
Goodfella's Pizza & Aunt Bessie's integration expenses (6)	12.5	8.3	—
Factory optimization (7)	5.7	1.6	—
Settlement of legacy matters (8)	(9.2)	(3.8)	(5.6)
Release/remeasurement of indemnification assets (9)	44.0	—	(8.3)
<b>Total exceptional items</b>	<b>54.5</b>	<b>17.7</b>	<b>37.2</b>

We do not consider these items to be indicative of our ongoing operating performance.

### (1) Implementation of strategic opportunities

In the year ended December 31, 2017, the Company incurred expenses in relation to the implementation of the Nomad strategic vision, which primarily relates to changes to the organizational structure to align behind core products and implement net revenue management initiatives.

### (2) Supply chain reconfiguration

Supply chain reconfiguration relates to activities associated with the closure of the Bjuv manufacturing facility in Sweden which ceased production in 2017. The income of €3.6 million in the year ended December 31, 2019 (2018: charge of €1.2 million, 2017: charge of €14.0 million) includes income on sale of the agricultural land which completed in May 2019 and the finalization of consideration received for the sale of the industrial property which completed in 2018. Costs in prior years relate to the closure and relocation of production and have been partially offset by income from the disposal of tangible assets.

### (3) Findus Group integration expenses

Following the acquisition of the Findus Group on November 2, 2015, the Company initiated a substantial integration project. Expenses of €3.5 million have been incurred in the year ended December 31, 2019 (2018: €10.4 million, 2017: €15.1 million). Expenses incurred since 2017 primarily relate to the roll-out of the Nomad ERP system which completed in 2019.

### (4) Expenses related to transactions

The expense for the year ended December 31, 2017 relates to enhanced control compliance procedures in territories following the acquisition of the Iglo Group.

### (5) Brexit

With the uncertainty of the United Kingdom exiting the European Union, commonly referred to as Brexit, we have begun preparations for the potential adverse impacts of Brexit to our supply chain, such as tariffs and delays at ports of entry and departure.

**(6) Goodfella's Pizza & Aunt Bessie's integration costs**

Following the acquisition of the Goodfella's pizza business in April 2018 and the Aunt Bessie's business in July 2018, the Company has initiated an integration project.

**(7) Factory optimization**

In 2018, the Company initiated a three-year factory optimization program. The focus of the program is to develop a new suite of standard manufacturing and supply chain processes, that will provide a single network of optimized factories. The program is expected to provide a number of benefits, including an optimized supply chain infrastructure, benefits derived from the implementation of a standardized global manufacturing and planning processes, and an increased level of sustainable performance improvement.

**(8) Settlement of legacy matters**

A net income of €9.2 million has been recognized associated with the release of acquired tax liabilities relating to periods prior to acquisition by the Company. Net income of €3.8 million was recognized in the year ended December 31, 2018. This includes an income of €2.7 million recognized on settlement of contingent consideration for the La Cocinera acquisition and net income of €0.7 million associated with settlements of tax audits. Net income of €5.6 million were recognized in the year ended December 31, 2017. This includes a charge of €3.9 million associated with settlements of tax audits, offset by gains of €4.2 million from the reassessment of sales tax provisions, €1.2 million from the reassessment of interest on sales tax provisions, a €2.8 million gain on a legacy pension plan in Norway and a €1.3 million gain on disposal of a non-operational factory.

**(9) Release/remeasurement of indemnification assets**

The charge in 2019 relates to the release of shares held in escrow as part of the consideration on the acquisition of the Findus Group, as discussed in Note 19. The charge in 2017 relates to the remeasurement of the indemnification asset following a movement in the value of shares that are held in escrow, which are limited to the value at which the asset was originally recognized, as well as the release of indemnification assets associated with the acquisition of the Iglo Group.

**Tax impact of exceptional items**

The tax impact of the exceptional items amounts to a credit of €3.1 million in the year ended December 31, 2019 (year ended December 31, 2018: €3.2 million, year ended December 31, 2017: €13.8 million).

**Cash flow impact of exceptional items**

Included in the Consolidated Statements of Cash Flows for the year ended December 31, 2019 is €15.9 million (year ended December 31, 2018: €43.4 million, year ended December 31, 2017: €99.5 million) of cash outflows relating to exceptional items. This includes cash flows related to the above items as well as the cash impact of the settlement of provisions brought forward from previous accounting periods.

**8) Payroll costs, share based payments and management incentive schemes**

**(a) Payroll costs**

The average number of persons employed by the Company (excluding non-Executive Directors) is analyzed and set out below:

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
Production	3,308	2,915	2,285
Administration, distribution & sales	1,448	1,510	1,572
<b>Total number of employees</b>	<b>4,756</b>	<b>4,425</b>	<b>3,857</b>

The increase in the average number of employees in the table above for the year ended December 31, 2019 compared with the year ended December 31, 2018 is primarily due to the acquisitions of Goodfella's and Aunt Bessie's in 2018.

The table below discloses the Company's aggregate payroll costs of these persons. Payroll costs exclude long term management incentive scheme and share based payment costs, but includes bonus costs.

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
Wages and salaries	250.4	240.6	200.8
Social security costs	45.2	46.0	42.0
Other pension costs	13.0	13.1	14.6
<b>Total payroll costs</b>	<b>308.6</b>	<b>299.7</b>	<b>257.4</b>

**(b) Share based payments**

The Company's discretionary share award scheme, the LTIP, enables the Company's Compensation Committee to make grants ("Awards") in the form of rights over ordinary shares, to any Director, Non-Executive Director or employee of the Company. However, it is the Committee's current intention that Awards be granted only to Directors and senior management, whilst recognizing a separate annual Restricted Stock Award for Non-Executive Directors.

All Awards are to be settled by physical delivery of shares.

**Non-Executive Director Restricted Share Awards**

In accordance with the Board approved independent Non-Executive Director compensation guidelines, each independent Non-Executive Director is granted \$100,000 of restricted shares annually on the date of the annual general meeting, valued at the closing market price for such shares on this date. The restricted shares vest on the earlier to occur of the date of the Company's annual meeting of shareholders or thirteen months from the date of grant.

The Non-Executive Directors restricted share awards granted on June 16, 2016, which consisted of 55,680 shares at a share price of \$8.98, vested on June 19, 2017 and were issued at a share price of \$ 14.38, resulting in a €0.3 million increase in the share based compensation reserve. Of the total 55,680 number of shares vesting, 9,384 shares were held back from issue by the Company as settlement towards personal tax liabilities arising on the vested shares.

The Non-Executive Directors restricted share awards granted on June 19, 2017, which consisted of 53,498 shares at a share price of \$14.38, vested on June 14, 2018 and were issued at a share price of \$17.94, resulting in a €0.2 million increase in the share based compensation reserve. Of the total 53,498 number of shares vesting, 12,312 shares were held back from issue by the Company as settlement towards personal tax liabilities arising on the vested shares.

The Non-Executive Directors restricted share awards granted on June 19, 2018, which consisted of 32,172 shares at a share price of \$18.07, vested on June 14, 2019 and were issued at a share price of \$20.74, resulting in a €0.1 million increase in the share based compensation reserve. Of the total 44,272 number of shares vesting, 12,100 shares were held back from issue by the Company as settlement towards personal tax liabilities arising on the vested shares.

On June 14, 2019, after the Company's annual general meeting of shareholders, the current Non-Executive Directors were granted 39,370 restricted share award at a share price of \$20.32.

In July 2019, following the resignation of a Non-Executive Director, 2,460 shares were vested and issued.

The total charge for Non-Executive Director grants within the Statement of Consolidated Profit or Loss for the year ended December 31, 2019 for stock compensation awards was €0.9 million (year ended December 31, 2018: €0.9 million; year ended December 31, 2017: €0.8 million).

#### Director and Senior Management Share Awards

As part of its long term incentive initiatives, the Company has outstanding awards over 4,518,964 ordinary shares granted to certain members of its management team (the "Management Share Awards") as of the following four award dates:

	January 1, 2016 Award	January 1, 2017 Award	January 1, 2018 Award	January 1, 2019 Award	Total
<b>Number of awards outstanding at January 1, 2019</b>	<b>3,025,953</b>	<b>1,015,000</b>	<b>583,700</b>	<b>—</b>	<b>4,624,653</b>
New awards granted in the period	—	—	—	166,427	166,427
Awards vested and issued in the period	—	(85,315)	—	—	(85,315)
Forfeitures in the period	(60,439)	(91,562)	(34,800)	—	(186,801)
<b>Number of awards outstanding at December 31, 2019</b>	<b>2,965,514</b>	<b>838,123</b>	<b>548,900</b>	<b>166,427</b>	<b>4,518,964</b>

The 2016, 2017 and 2018 awards have vesting conditions based on cumulative EBITDA performance and over four years and Company share price performance over two to five years. During 2019, the Compensation Committee of the Board of Directors amended the targets for these awards resulting in a revaluation of the awards reflected in the expense taken in 2019. The share price and EBITDA performance conditions are weighted 50% each per award.

- For the 2016 award, the initial two-year period is through to January 1, 2018 and the subsequent revised three-year period is through to January 1, 2021.
- For the 2017 award, the initial two-year period is through to January 1, 2019 and the subsequent two-year period is through to January 1, 2021.
- For the 2018 award, the initial two-year period is through to January 1, 2020 and the subsequent revised three-year period is through to January 1, 2023.

If the revised respective four-year cumulative EBITDA Performance Condition is satisfied, up to 50% of such award will vest on January 1, 2020, 2021 and 2022, respectively, as the case may be.

The incremental fair value granted as a result of the modifications made to the January 1, 2016 and 2017 awards was \$9.9 million (€8.7 million), \$1.1 million (€1.0 million), respectively. There was no incremental fair value on modification for the January 1, 2018 award.

In September 2019, 166,427 restricted share awards were granted as part of the 2019 Management Share Award. The performance period associated with the award began as of January 1, 2019. The 2019 awards have vesting conditions based on three-year cumulative EBITDA and net sales, and Company share price performance measures. One third of the total share award is assigned to each type of performance measure. All shares are subject to a holding period of an additional year and require that the participants to the scheme are still actively employed during the entire four year period, through January 1, 2023.

In September 2018, 294,810 restricted shares granted as part of the 2016 Management Share Awards vested based on share price performance, resulting in the issuance of 181,054 ordinary shares in October 2018 (net of 113,756 ordinary shares held back from issue by the Company as settlement towards personal tax liabilities arising on the vested ordinary shares).

In January 2019, 85,315 restricted shares granted as part of the 2017 Management Share Awards vested based on share price performance, resulting in the issuance of 51,932 ordinary shares (net of 33,383 ordinary shares held back from issue by the Company as settlement towards personal tax liabilities arising on the vested ordinary shares).

The stock compensation charge reported within the Consolidated Statement of Profit or Loss for the year ended December 31, 2019 related to the director and senior management share awards is €14.0 million (year ended December 31, 2018: €12.1 million; year ended December 31, 2017: €1.8 million).

The Company calculates the cost of the Management Share Awards based upon their fair value using the Monte Carlo Model, which is considered to be the most appropriate methodology considering the restricted shares only vest once the market performance conditions have been satisfied. Following the revisions to the EBITDA Performance Conditions and benchmark market share price targets described above, and the addition of the January 1, 2019 scheme, the inputs and assumptions underlying the Monte Carlo models for all awards outstanding as of valuation date are now as follows:

	January 1, 2016 award	January 1, 2017 award	January 1, 2018 award	January 1, 2019 award
Revised grant date price	\$ 16.72	\$ 16.72	\$ 16.72	\$ 20.15
Exercise price	\$ —	\$ —	\$ —	\$ —
Expected life of restricted share	1.00 - 2.00 years	2.00 years	1.5 - 4.00 years	4.00 years
Expected volatility of the share price	22.6%	22.6%	22.7%	24.0%
Dividend yield expected	—%	—%	—%	—%
Risk free rate	2.65%	2.65%	2.55%	1.33%
Employee exit rate	6.0%	14.0%	14.0%	14.0%
EBITDA Performance Target Condition	93.0%	72.0%	35.0%	35.0%

The expected volatility of the share price inputs above were estimated by referencing selected quoted companies which are considered to exhibit some degree of comparability with the Company, as the Company has only been listed for approximately four years.

Based on the revised assessment in the current period of fair value and the number of shares expected to vest, the total fair values in respect of the Restricted Shares are:

- 2016 award - \$28.2 million (€24.7 million)
- 2017 award - \$5.2 million (€4.6 million)
- 2018 award - \$1.6 million (€1.3 million)
- 2019 award - \$1.4 million (€1.2 million)

#### Initial Director Options

In 2014, certain Non-Executive Directors were granted options ("Initial Options") to purchase a maximum of 125,000 Ordinary Shares at an exercise price of \$11.50 per ordinary share. The awards were valued at issuance and expensed during the two years ended April 1, 2016.

In June 2018, a former Non-Executive Director exercised 9,375 of 125,000 initial options granted to them for €0.1 million.

Throughout 2019, former Non-Executive Directors exercised a further 56,250 of the 125,000 initial options granted to them for €0.6 million. The remaining 59,375 options expire on May 31, 2020.

The awards are exercisable within a 5 year period, which commenced on the trading day immediately following the Iglo Group acquisition on June 1, 2015.

9) **Directors and Key Management compensation**

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
Short-term employee benefits	2.8	3.3	2.0
Share-based payment expense	7.6	6.3	1.4
Termination benefits	—	0.1	0.4
Non-Executive Director fees	0.4	0.4	0.3
<b>Total Directors' and executive officers' compensation</b>	<b>10.8</b>	<b>10.1</b>	<b>4.1</b>

All significant management decision making authority is vested within the Board of Directors and the executive team, therefore key management are considered to be the Directors and executive Officers.

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
Benefits are accruing to the following number of key management personnel under:			
Defined contribution plans	2	3	2
Share based payment schemes	2	3	2

10) **Finance income and costs**

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
Interest income	2.5	0.2	0.2
Net fair value gains on derivatives held at fair value through profit or loss	—	1.4	7.0
<b>Finance income</b>	<b>2.5</b>	<b>1.6</b>	<b>7.2</b>
Interest and finance charges paid/payable for lease liabilities and financial liabilities not at fair value through profit or loss (1)	(79.0)	(64.4)	(54.0)
Cross-currency interest rate swaps: cash flow hedges, transfer from equity	21.8	14.6	3.9
Net pension interest costs	(3.8)	(3.8)	(3.6)
Amortization of borrowing costs	(2.0)	(1.5)	(2.7)
Net foreign exchange losses on translation of financial assets and liabilities	(3.9)	(0.3)	(3.9)
Interest on unwinding of discounted items	—	(1.1)	(1.2)
Net fair value losses on derivatives held at fair value through profit or loss	(8.8)	—	—
Financing costs incurred in amendment of terms of debt (2)	—	(1.1)	(20.1)
<b>Finance costs</b>	<b>(75.7)</b>	<b>(57.6)</b>	<b>(81.6)</b>
<b>Net finance costs</b>	<b>(73.2)</b>	<b>(56.0)</b>	<b>(74.4)</b>

(1) Following the adoption of IFRS 16 *Leases* on January 1, 2019, this caption includes the unwinding of discounting on lease liabilities.

(2) A one-off charge of €20.1 million was incurred as a consequence of the refinancing in May 2017 and repricing in December 2017. Of this, deferred transaction costs of €15.7 million relating to the previous senior debt were written off.

## 11) Taxation

	Note	Year ended December 31, 2019 €m	Year ended December 31, 2018 €m	Year ended December 31, 2017 €m
<b>Current tax expense</b>				
Current tax on profits for the period		(66.4)	(63.9)	(37.5)
Adjustments in respect of prior periods		—	2.8	3.2
		(66.4)	(61.1)	(34.3)
<b>Deferred tax income/(expense)</b>				
Origination and reversal of temporary differences		9.7	4.5	(2.1)
Impact of change in tax rates		—	—	4.4
	16	9.7	4.5	2.3
<b>Total tax expense</b>		<b>(56.7)</b>	<b>(56.6)</b>	<b>(32.0)</b>

Reconciliation of effective tax rate:

	Year ended December 31, 2019 €m	Year ended December 31, 2018 €m	Year ended December 31, 2017 €m
Profit before tax	210.3	227.1	168.5
Tax charge at the standard UK corporation tax rate 19% (2018: 19%; 2017: 19.25%)	(39.9)	(43.2)	(32.5)
Difference in tax rates	(11.9)	(14.8)	(10.0)
Non tax deductible interest	0.6	—	4.4
Other income and expenses not taxable or deductible	(1.2)	5.3	16.8
Unrecognized tax assets	(0.9)	0.6	(19.3)
Provisions for uncertainties	(3.4)	(7.3)	1.0
Impact of change in deferred tax rates	—	—	4.4
Prior period adjustment	—	2.8	3.2
<b>Total tax expense</b>	<b>(56.7)</b>	<b>(56.6)</b>	<b>(32.0)</b>

### Effective tax rates

Effective from and including January 12, 2016, the Company became a resident in the United Kingdom for United Kingdom tax purposes. The effective tax rate for the year ended December 31, 2019 was 27.0% (year ended December 31, 2018: 24.9%). The change is principally caused by higher tax rates applied to profits in other jurisdictions and by an increase in non deductible expenses.

The Company operates in many different jurisdictions and in some of these, certain matters are under discussion with local tax authorities. These discussions are often complex and can take many years to resolve, and are in different stages with respect to assessments appeals and refunds. The Company actively seeks to manage the associated risks by proactively engaging with tax authorities and applying for Advanced Pricing Agreements where appropriate. Accruals for tax contingencies require management to make estimates and judgments with respect to the ultimate outcome of a tax audit, and actual results could vary from these estimates. Where tax exposures can be quantified, a provision is made based on best estimates and management's judgments. Given the inherent uncertainties in assessing the outcomes of these exposures (which can sometimes be binary in nature), the Company could, in future years, experience adjustments to this provision, including releases of provisions when those exposures become time-barred.

Notwithstanding this, management believes that the Company's position on all open matters including those in current discussion with local tax authorities is robust and that the Company is appropriately provided. As of December 31, 2019, the current tax payable of €217.2m and deferred tax assets of €96.4m includes provisions for tax uncertainties of €137.8m. As of December 31, 2018, the current tax payable of €201.2m and deferred tax assets of €68.7m included provisions for tax uncertainties of €135.9m.

Following the enactment of the Finance Act 2016, the standard rate of corporation tax in the UK is 19% for 2019 (2018: 19%). The standard rate of corporation tax in the UK reduced from 20% to 19% with effect from April 1, 2017 and was due to reduce by a further 2% to 17% from April 1, 2020. As the reductions to 19% and 17% were substantially enacted on September 6, 2016, these rates are reflected in these financial statements. The UK government has indicated that this further reduction will not now take place, the impact of which will be reflected in the financial statements once it is substantially enacted.

The tax (credit)/charge relating to components of other comprehensive income is as follows:

Year ended December 31, 2019	Note	Before tax €m	Tax credit €m	After tax €m
Remeasurement of post-employment benefit liabilities		35.9	(6.7)	29.2
Net investment hedge		(6.0)	—	(6.0)
Cash flow hedges		27.3	(5.6)	21.7
<b>Other comprehensive loss/(income)</b>		<b>57.2</b>	<b>(12.3)</b>	<b>44.9</b>
Current tax			—	
Deferred tax	16		(12.3)	
			<b>(12.3)</b>	

  

Year ended December 31, 2018	Note	Before tax €m	Tax (credit)/charge €m	After tax €m
Remeasurement of post-employment benefit liabilities		12.9	(3.3)	9.6
Net investment hedge		(5.6)	—	(5.6)
Cash flow hedges		(15.5)	4.0	(11.5)
<b>Other comprehensive (income)/loss</b>		<b>(8.2)</b>	<b>0.7</b>	<b>(7.5)</b>
Current tax			—	
Deferred tax	16		0.7	
			<b>0.7</b>	

  

Year ended December 31, 2017	Note	Before tax €m	Tax charge/(credit) €m	After tax €m
Remeasurement of post-employment benefit liabilities		(2.9)	2.0	(0.9)
Net investment hedge		0.8	—	0.8
Cash flow hedges		16.4	(5.0)	11.4
<b>Other comprehensive loss/(income)</b>		<b>14.3</b>	<b>(3.0)</b>	<b>11.3</b>
Current tax			—	
Deferred tax	16		(3.0)	
			<b>(3.0)</b>	

12) **Property, plant and equipment**

	December 31, 2019	December 31, 2018
	€m	€m
Owned property, plant and equipment (i)	350.0	348.8
Right-of-use assets (ii)	72.4	—
<b>Property, plant and equipment</b>	<b>422.4</b>	<b>348.8</b>

As detailed in Note 2, the right-of-use assets have been recognized following the adoption of IFRS 16 *Leases* on January 1, 2019.

(i) **Owned property, plant and equipment**

	Land and buildings	Plant and equipment	Computer equipment	Total
	€m	€m	€m	€m
<b>Cost</b>				
<b>Balance at December 31, 2017</b>	117.4	242.5	3.2	363.1
Acquisitions through business combinations	32.7	28.1	0.5	61.3
Additions	6.7	24.5	5.3	36.5
Disposals	(3.5)	(0.5)	—	(4.0)
Effect of movements in foreign exchange	(1.5)	(4.4)	—	(5.9)
<b>Balance at December 31, 2018</b>	151.8	290.2	9.0	451.0
Additions	4.1	34.7	4.7	43.5
Disposals	(1.5)	(1.1)	—	(2.6)
Effect of movements in foreign exchange	1.8	8.1	0.1	10.0
<b>Balance at December 31, 2019</b>	<b>156.2</b>	<b>331.9</b>	<b>13.8</b>	<b>501.9</b>
<b>Accumulated depreciation and impairment</b>				
<b>Balance at December 31, 2017</b>	8.2	57.4	2.1	67.7
Depreciation	7.2	31.7	0.4	39.3
Effect of movements in foreign exchange	(1.1)	(3.6)	(0.1)	(4.8)
<b>Balance at December 31, 2018</b>	14.3	85.5	2.4	102.2
Depreciation	7.7	34.4	1.5	43.6
Impairment	—	0.1	—	0.1
Disposals	—	(0.3)	—	(0.3)
Effect of movements in foreign exchange	1.0	5.3	—	6.3
<b>Balance at December 31, 2019</b>	<b>23.0</b>	<b>125.0</b>	<b>3.9</b>	<b>151.9</b>
Net book value December 31, 2017	109.2	185.1	1.1	295.4
Net book value December 31, 2018	137.5	204.7	6.6	348.8
<b>Balance at December 31, 2019</b>	<b>133.2</b>	<b>206.9</b>	<b>9.9</b>	<b>350.0</b>

**Assets under construction**

Additions to for the year ended December 31, 2019 includes assets under construction of €13.1 million (year ended December 31, 2018: €10.2 million).

## Security

Borrowings have been provided by a syndicate of third party lenders, (the "Syndicate"). The Syndicate together with holders of the bond issue have security over the assets of the "Guarantor Group". The "Guarantor Group" consists of those companies which individually have more than 5% of consolidated total assets or EBITDA (as defined in the Senior Facilities Agreement) of the Company and in total comprise more than 80% of consolidated total assets or EBITDA at any testing date.

### (ii) Right-of-use assets

	December 31, 2019	December 31, 2018
	€m	€m
<b>Net book value</b>		
Land and Buildings	62.8	—
Plant and equipment and motor vehicles	9.2	—
Computer equipment	0.4	—
<b>Right-of-use assets</b>	<b>72.4</b>	<b>—</b>

Additions to the right-of-use assets during the year ended December 31, 2019 were €6.2 million.

Lease liabilities are included within loans and borrowings in Note 21. Interest on lease liabilities is presented as a finance cost in Note 10. Payments of lease liabilities are included as a financing activity within the Statement of Cash Flows.

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
<b>Depreciation</b>			
Land and Buildings	10.7	—	—
Plant and equipment	5.2	—	—
Computer equipment	0.2	—	—
<b>Depreciation expense of right-of-use assets</b>	<b>16.1</b>	<b>—</b>	<b>—</b>

### 13) Goodwill and Intangibles

	Goodwill €m	Brands €m	Computer software €m	Customer relationships €m	Total €m
<b>Cost</b>					
<b>Balance at December 31, 2017</b>	1,745.6	1,688.9	18.3	31.0	3,483.8
Acquisitions through business combinations	115.4	362.2	1.1	—	478.7
Additions	—	—	6.6	—	6.6
Effect of movements in foreign exchange	—	—	(0.6)	—	(0.6)
<b>Balance at December 31, 2018</b>	1,861.0	2,051.1	25.4	31.0	3,968.5
Acquisitions through business combinations	1.9	—	—	—	1.9
Additions	—	—	4.8	—	4.8
Disposals	—	—	(0.1)	—	(0.1)
Effect of movements in foreign exchange	—	—	(0.3)	—	(0.3)
<b>Balance at December 31, 2019</b>	<b>1,862.9</b>	<b>2,051.1</b>	<b>29.8</b>	<b>31.0</b>	<b>3,974.8</b>
<b>Accumulated amortization and impairment</b>					
<b>Balance at December 31, 2017</b>	—	1.5	7.5	4.8	13.8
Amortization	—	1.2	3.6	2.2	7.0
Effect of movements in foreign exchange	—	—	(0.5)	—	(0.5)
<b>Balance at December 31, 2018</b>	—	2.7	10.6	7.0	20.3
Amortization	—	1.7	4.7	2.2	8.6
Effect of movements in foreign exchange	—	—	(0.1)	—	(0.1)
<b>Balance at December 31, 2019</b>	—	<b>4.4</b>	<b>15.2</b>	<b>9.2</b>	<b>28.8</b>
Net book value December 31, 2017	1,745.6	1,687.4	10.8	26.2	3,470.0
Net book value December 31, 2018	1,861.0	2,048.4	14.8	24.0	3,948.2
<b>Net book value December 31, 2019</b>	<b>1,862.9</b>	<b>2,046.7</b>	<b>14.6</b>	<b>21.8</b>	<b>3,946.0</b>

Amortization of €8.6 million (December 31, 2018: €7.0 million; December 31, 2017: €6.5 million) is included in 'other operating expenses' in the Consolidated Statement of Profit or Loss.

The Company's goodwill, brand and customer relationships values have been allocated based on the enterprise value at acquisition of each cash generating unit ("CGU"). Goodwill is monitored at an operating segment level. As required by IAS 36 'Impairment of Assets', an annual review of the carrying amount of the goodwill and the indefinite life brands is carried out to identify whether there is any impairment to these carrying values. This is done by means of comparison of the carrying values to the value in use of the CGU. Value in use is calculated as the net present value of the projected risk-adjusted cash flows of each CGU.

#### Key assumptions

The values for the key assumptions were arrived at by taking into consideration detailed historical information and comparison to external sources where appropriate, such as market rates for discount factors.

- Budgeted cash flows: the calculation of value in use has been based on the cash flow forecasts by management for 2020 to 2022. The trends in these forecasts have been extrapolated to produce 2023 and 2024 forecast cash flows. Beyond 2024 the same assumptions have been applied for future periods in the absence of longer term detailed forecasts. These plans have been prepared and approved by management, and incorporate past performance of the entities acquired in the period, historical growth rates and projections of developments in key markets.

- Revenue: projected revenues are built up with reference to markets and product platforms. They incorporate past performance, historical growth rates and projections of developments in key markets.
- Profit margins: projected margins reflect historical performance.
- Capital expenditure forecast includes an allowance for the replacement of leased right-of-use assets.
- Discount rate: a pre-tax discount rate of 7.1% (2018: 8.2%) was applied to the cash flows. This discount rate has been calculated using a capital asset pricing model using observable market data, including the share price of Nomad Foods Limited.
- Long-term growth rates: the growth rate used in the testing after the detailed forecasting period was 1.0% (2018: 1.0%). These rates do not reflect the long-term assumptions used by the Company for investment planning.

#### Sensitivity to changes in assumptions

Impairment was not required at either December 31, 2019, or December 31, 2018. In each case the valuations derived from the discounted cash flow model indicate a sufficient amount of headroom for which any reasonably possible change to key assumptions is unlikely to result in an impairment of the related goodwill.

#### 14) Acquisitions

##### (a) Goodfella's Pizza

On April 21, 2018, the Company completed its acquisition of all of the share capital of Green Isle Foods Limited ("Goodfella's Pizza") for £209.7 million (€239.0 million), including post-acquisition working capital and net debt adjustments. Goodfella's Pizza (legal entity subsequently renamed Birds Eye Pizza Limited and then Birds Eye Ireland Limited), is a pizza producer based in Ireland that complements our existing business model.

The purchase price allocation exercise over the assets and liabilities of Birds Eye Pizza Limited/Birds Eye Ireland Limited at the date acquisition and the consideration paid, was finalized on April 20, 2019, without any changes to the provisional estimates reported as at December 31, 2018. These were as follows:

	April 21, 2018
	€m
<b>Assets:</b>	
Intangible assets	158.0
Property, plant and equipment	33.2
Current assets	7.5
Inventories	10.7
Deferred tax assets	0.9
<b>Total assets</b>	<b>210.3</b>
<b>Liabilities:</b>	
Current liabilities	31.2
Deferred tax liabilities	22.6
<b>Total liabilities</b>	<b>53.8</b>
<b>Total identifiable net assets acquired</b>	<b>156.5</b>
<b>Total purchase consideration</b>	<b>239.0</b>
<b>Total identifiable net assets acquired</b>	<b>(156.5)</b>
<b>Goodwill</b>	<b>82.5</b>

Goodwill recognized on acquisition is €82.5 million. The goodwill recognized is attributable mainly to the growth prospects for the business expected organically and operational synergies.

**(b) Toppfrys AB**

Effective March 2, 2018, the Company acquired a 60% stake of the outstanding share capital of Toppfrys AB, a pea processing business in Sweden that complements our existing business model. The Company paid €1.7 million (SEK 17.0 million) for the equity share acquired and subsequently provided loans of €1.5 million (SEK 13.6 million), bringing the total payments to €3.2 million (SEK 30.6 million). The Company had consolidated the business and has recognized a 40% non-controlling interest as it was determined to have control based on an assessment of the acquired business. The shareholder arrangements include a put option for the non-controlling interest to sell their remaining shares from 2020 and call options for the Company to acquire the remaining shares from 2022.

The purchase price allocation exercise for the acquisition was finalized on March 1, 2019, valuing the 60% stake of net liabilities acquired were valued at €0.1 million and resulting in goodwill recognized of €1.8 million. The Company believes the future value of goodwill will be obtained through its market position in Sweden.

On December 29, 2018, the Company increased its stake in Toppfrys AB to 81%, acquiring newly issued shares for consideration of €3.0 million (SEK 30.7 million). The shares were settled in exchange for loans payable by the subsidiary to another wholly owned subsidiary. The Company continues to consolidate the business and has recognized a 19% non-controlling interest from this date.

**(c) Aunt Bessie's**

On July 2, 2018, the Company completed its acquisition of all the share capital of Aunt Bessie's Limited ("Aunt Bessie's") from William Jackson & Son Limited for a purchase price of £209.0 million (€235.9 million). Aunt Bessie's is a leading frozen food company in the United Kingdom where it manufactures, distributes and sells a range of branded frozen food products. The Aunt Bessie's brand holds number one and number two market share positions, respectively, within frozen Yorkshire puddings and frozen potatoes, which combine to represent the majority of its revenues.

The purchase price allocation exercise over the assets and liabilities of Aunt Bessie's Limited at the date of acquisition and the consideration paid, was finalized on July 1, 2019. An adjustment of €1.9 million has been recognized in the year to recognize pre-acquisition related liabilities. The consideration paid is the same as that reported as at December 31, 2018. These were as follows:

	July 2, 2018
	€m
<b>Assets:</b>	
Intangible assets	205.3
Property, plant and equipment	23.1
Current assets	19.5
Inventories	13.2
Total assets	261.1
<b>Liabilities:</b>	
Current liabilities	20.6
Deferred tax liabilities	37.6
Total liabilities	58.2
<b>Total identifiable net assets acquired</b>	<b>202.9</b>
<b>Total purchase consideration</b>	<b>235.9</b>
Total identifiable net assets acquired	(202.9)
<b>Goodwill</b>	<b>33.0</b>

Goodwill recognized on acquisition is €33.0 million. The goodwill recognized is attributable mainly to the growth prospects for the business expected organically and operational synergies.

**(d) Purchase consideration - cash outflow**

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
	€m	€m	€m
<b>Outflow of cash to acquire subsidiary, net of cash acquired</b>			
Cash consideration	—	474.9	—
Less cash acquired	—	(9.8)	—
Contingent consideration paid related to acquisitions	24	6.5	—
<b>Net outflow of cash - investing activities</b>	<b>1.5</b>	<b>471.6</b>	<b>—</b>

## 15) Investments

The following are the Company's significant investments as of December 31, 2019.

	Activity	Country of incorporation	Class of shares held	Ownership as of December 31, 2019
Nomad Foods Europe Holdings Limited	Holding	England	Ordinary	100%
Nomad Foods Europe Holdco Limited	Holding	England	Ordinary	100%
Nomad Foods Europe Finco Limited	Holding	England	Ordinary	100%
Nomad Foods Europe Midco Limited	Holding/ Finance	England	Ordinary	100%
Nomad Foods Bondco Plc	Finance	England	Ordinary	100%
Nomad Foods Lux S.à.r.l.	Finance	Luxembourg	Ordinary	100%
Nomad Foods Europe Limited	Management	England	Ordinary	100%
Birds Eye Limited	Trading	England	Ordinary	100%
Nomad Foods Europe Finance Limited	Finance	England	Ordinary	100%
Aunt Bessie's Limited	Non-Trading	England	Ordinary	100%
Birds Eye Ireland Limited	Trading	Republic of Ireland	Ordinary	100%
Birds Eye Ireland Oldco Unlimited Company	Non-Trading	Republic of Ireland	Ordinary	100%
Iglo Holding GmbH	Holding	Germany	Ordinary	100%
Iglo Nederland B.V.	Trading	Netherlands	Ordinary	100%
Iglo Belgium S.A.	Trading	Belgium	Ordinary	100%
Iglo Portugal	Trading	Portugal	Ordinary	100%
Iglo Austria Holdings GmbH	Holding	Austria	Ordinary	100%
C.S.I. Compagnia Surgelati Italiana S.R.L.	Trading	Italy	Ordinary	100%
Findus Sverige Holdings AB	Holding	Sweden	Ordinary	100%
Iglo GmbH	Trading	Germany	Ordinary	100%
Frozen Fish International GmbH	Trading	Germany	Ordinary	100%
Liberator Germany Newco GmbH	Property	Germany	Ordinary	100%
Iglo Austria GmbH	Trading	Austria	Ordinary	100%
Findus Sverige AB	Trading	Sweden	Ordinary	100%
Frionor Sverige AB	Holding	Sweden	Ordinary	100%
Findus Holdings France SAS	Holding	France	Ordinary	100%
Findus France SAS	Trading	France	Ordinary	100%
Findus Espana SLU	Trading	Spain	Ordinary	100%
Findus Danmark A/S	Trading	Denmark	Ordinary	100%
Findus Finland Oy	Trading	Finland	Ordinary	100%
Findus Norge AS	Trading	Norway	Ordinary	100%
Findus Norge Holding AS	Holding	Norway	Ordinary	100%
Toppfrys AB	Trading	Sweden	Ordinary	81%

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## 16) Deferred tax assets and liabilities

### Recognized deferred tax assets and liabilities

Deferred tax assets and liabilities are attributable to the following:

	December 31, 2019			December 31, 2018		
	Assets	Liabilities	Total	Assets	Liabilities	Total
	€m	€m	€m	€m	€m	€m
Property, plant and equipment	23.0	(29.3)	(6.3)	15.6	(28.0)	(12.4)
Intangible assets	0.4	(357.0)	(356.6)	0.3	(354.4)	(354.1)
Employee benefits	40.2	(0.4)	39.8	30.0	(0.4)	29.6
Tax value of loss carry forwards	20.7	—	20.7	19.1	—	19.1
Derivative financial instruments	3.2	(0.3)	2.9	—	(2.5)	(2.5)
Other	8.9	(11.2)	(2.3)	3.7	(6.8)	(3.1)
<b>Tax assets/(liabilities)</b>	<b>96.4</b>	<b>(398.2)</b>	<b>(301.8)</b>	<b>68.7</b>	<b>(392.1)</b>	<b>(323.4)</b>

Deferred income tax assets are recognized for tax loss carry-forwards to the extent that the realization of the related tax benefit through future taxable profits is probable.

Deferred tax assets that the Company has not recognized in the financial statements amount to €70.3 million (December 31, 2018: €66.3 million). These deferred tax assets had not been recognized as the likelihood of recovery is not probable.

The aggregate deferred tax relating to items that have been credited directly to equity is €12.3 million (December 31, 2018: debit of €0.7 million).

Movement in deferred tax during the year:

	Opening balance Jan 1, 2019	Recognized in Statement of Profit or Loss	Recognized in Other Comprehensive Income	Movement in foreign exchange	Closing balance Dec 31, 2019
	€m	€m	€m	€m	€m
Property, plant and equipment	(12.4)	6.3	—	(0.2)	(6.3)
Intangible assets	(354.1)	(2.5)	—	—	(356.6)
Employee benefits	29.6	3.5	6.7	—	39.8
Tax value of loss carry forwards	19.1	1.6	—	—	20.7
Derivative financial instruments	(2.5)	—	5.6	(0.2)	2.9
Other	(3.1)	0.8	—	—	(2.3)
<b>Total deferred tax</b>	<b>(323.4)</b>	<b>9.7</b>	<b>12.3</b>	<b>(0.4)</b>	<b>(301.8)</b>

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	Opening balance Jan 1, 2018	Opening balance restatement due to IFRS 9 transition	Acquired in business combinations	Recognized in Statement of Profit or Loss	Recognized in Other Comprehensive Income	Movement in foreign exchange	Closing balance Dec 31, 2018
	€m	€m	€m	€m	€m	€m	€m
Property, plant and equipment	(15.2)	—	—	3.2	—	(0.4)	(12.4)
Intangible assets	(295.0)	—	(59.3)	0.2	—	—	(354.1)
Employee benefits	28.2	—	—	(1.5)	3.3	(0.4)	29.6
Tax value of loss carry forwards	15.6	—	—	3.5	—	—	19.1
Derivative financial instruments	1.4	—	—	0.1	(4.0)	—	(2.5)
Other	1.6	(3.7)	—	(1.0)	—	—	(3.1)
<b>Total deferred tax</b>	<b>(263.4)</b>	<b>(3.7)</b>	<b>(59.3)</b>	<b>4.5</b>	<b>(0.7)</b>	<b>(0.8)</b>	<b>(323.4)</b>

#### 17) Inventories

	December 31, 2019	December 31, 2018
	€m	€m
Raw materials and consumables	86.8	81.6
Work in progress	48.3	50.7
Finished goods and goods for resale	188.1	210.2
<b>Total inventories</b>	<b>323.2</b>	<b>342.5</b>

During the year ended December 31, 2019, €9.0 million (year ended December 31, 2018 €7.1 million, year ended December 31, 2017: €7.6 million) was charged to the Consolidated Statement of Profit or Loss for the write down of inventories.

#### 18) Trade and other receivables

	December 31, 2019	December 31, 2018
	€m	€m
<b>Current assets</b>		
Trade receivables	143.6	98.3
Prepayments and accrued income	8.0	9.2
Other receivables	31.0	38.4
Tax receivable	24.1	28.0
<b>Total current trade and other receivables</b>	<b>206.7</b>	<b>173.9</b>
<b>Non-current assets</b>		
Other receivables	1.9	2.6
<b>Total non-current trade and other receivables</b>	<b>1.9</b>	<b>2.6</b>
<b>Total trade and other receivables</b>	<b>208.6</b>	<b>176.5</b>

Trade receivables, prepayments and other receivables, except for those defined as non-current, are expected to be recovered in less than 12 months. Other receivables includes VAT receivable.

The ageing of trade receivables is detailed below:

	Gross €m	Impaired €m	Net €m
<b>December 31, 2019</b>			
Not past due	288.1	(0.2)	287.9
Past due less than 1 month	32.5	(0.3)	32.2
Past due 1 to 3 months	7.5	(0.2)	7.3
Past due 3 to 6 months	3.6	(0.2)	3.4
Past due more than 6 months	7.9	(3.9)	4.0
<b>Sub-total</b>	<b>339.6</b>	<b>(4.8)</b>	<b>334.8</b>
Reduction in trade-terms <sup>(1)</sup>			(191.2)
<b>Total trade receivables</b>			<b>143.6</b>
<b>December 31, 2018</b>			
Not past due	228.5	—	228.5
Past due less than 1 month	20.9	—	20.9
Past due 1 to 3 months	4.8	—	4.8
Past due 3 to 6 months	1.6	(0.2)	1.4
Past due more than 6 months	5.6	(4.1)	1.5
<b>Sub-total</b>	<b>261.4</b>	<b>(4.3)</b>	<b>257.1</b>
Reduction in trade-terms (1)			(158.8)
<b>Total trade receivables</b>			<b>98.3</b>

(1) Refer to Note 4(a). Reduction in trade term amounts are primarily not past due.

Trade receivables have been provided against based on expected credit losses.

The maximum exposure to credit risk at the reporting date is the fair value of each class of receivable. The Company does not hold any collateral as security.

Debts past due are not impaired where there are eligible trade terms deductions which can be offset against them.

The Company entered into facilities with third-party banks in which the Company may sell qualifying trade debtors on a non-recourse basis. Under the terms of the agreements, the Company has transferred substantially all the credit risks and control of the receivables, which are subject to this agreement, and accordingly €nil (December 31, 2018: €51.0 million) of trade receivables has been derecognized at the period end.

#### Liabilities related to contracts with customers

The Company has recognized the following liabilities related to contracts with customers:

	December 31, 2019 €m	December 31, 2018 €m
Trade terms liabilities reported within trade receivables	(191.2)	(158.8)
Trade terms liabilities reported within trade and other payables (Note 22)	(59.4)	(79.5)
<b>Total trade terms liabilities</b>	<b>(250.6)</b>	<b>(238.3)</b>

#### Significant changes to trade terms

No significant changes to trade terms occurred in the year ended December 31, 2019.

Revenue recognized in relation to trade terms

Trade terms relate to sales made with variable consideration and are an estimate as disclosed in Note 4(a). Revenue recognized in the year ended December 31, 2019 relating to performance obligations that were satisfied in the prior year was €17.3 million (2018: €17.2 million).

19) Indemnification assets

	Year ended December 31, 2019	Year ended December 31, 2018
	€m	€m
<b>Balance at January 1</b>	<b>79.4</b>	<b>73.8</b>
Recognized through business combinations	—	6.1
Utilized	—	(0.5)
Release of indemnified provision	(44.0)	—
<b>Balance at December 31</b>	<b>35.4</b>	<b>79.4</b>

As at December 31, 2019, €29.8 million (December 31, 2018: €73.8 million) of the indemnification assets relate to the acquisition of the Findus Group for which 1,583,627 shares are held in escrow and are valued at \$22.37 (€19.96) (December 31, 2018: 6,964,417 shares valued at \$16.72 (€14.62)) each. The shares placed in escrow will be released in stages over a four-year period beginning January 2019 and each anniversary thereafter. During 2019, 5,380,790 shares were released from escrow. As a consequence, the indemnification asset was reduced by €44.0 million with a corresponding charge to the Statement of Profit or Loss.

In January 2020, 965,528 shares were released from escrow. As a consequence the indemnification asset will be reduced by approximately €17.8 million with a corresponding charge of to the Statement of Profit or Loss within the financial statements for the year ended December 31, 2020.

The indemnification asset of €5.6 million (2018: €5.6 million) recognized in relation to the Goodfella's Pizza acquisition relates to several contingent liabilities that arose prior to acquisition.

20) Cash and cash equivalents

	December 31, 2019	December 31, 2018
	Note	€m
		€m
Cash and cash equivalents		826.0
Restricted cash		0.1
<b>Cash and cash equivalents</b>		<b>826.1</b>
Bank overdraft	22	(1.3)
<b>Cash and cash equivalents per Statement of Cash Flows</b>		<b>824.8</b>

'Cash and cash equivalents' comprise cash balances and deposits. Restricted cash comprises money that is primarily reserved for a specific purpose and therefore not available for immediate or general business use. Bank overdrafts that are repayable on demand and form an integral part of the Company's cash management are included as a component of cash and cash equivalents for the purposes of the Statement of Cash Flows.

## 21) Loans and borrowings

The repayment profile of the syndicated and other loans held by the Company is as follows:

	December 31, 2019	December 31, 2018
	€m	€m
<b>Current liabilities/(assets)</b>		
Syndicated loans	10.8	23.4
Lease liabilities	18.9	—
Less deferred borrowing costs to be amortized within 1 year	(2.0)	(2.0)
<b>Total due in less than one year</b>	<b>27.7</b>	<b>21.4</b>
<b>Non-current liabilities</b>		
Syndicated loans	1,364.4	1,351.8
2024 fixed rate senior secured notes	400.0	400.0
Lease liabilities	90.1	—
Less deferred borrowing costs to be amortized in 2-5 years	(6.9)	(7.9)
Less deferred borrowing costs to be amortized in more than 5 years	—	(1.0)
<b>Total due after more than one year</b>	<b>1,847.6</b>	<b>1,742.9</b>
<b>Total borrowings</b>	<b>1,875.3</b>	<b>1,764.3</b>

As detailed in Note 2, following the adoption of IFRS 16 Leases on January 1, 2019, loans and borrowings now includes €109.0 million relating to lease liabilities.

On May 3, 2017 the Company completed a refinancing of its Senior debt. All Senior debt as at the balance sheet date was repaid and replaced with new Senior Euro debt of €500.0 million and Senior U.S. Dollar debt of \$610.0 million. Both are repayable on May 15, 2024. The Senior U.S. Dollar debt requires a mandatory repayment of 1% of notional, of which \$6.6 million was repaid in 2018 and \$9.6 million in 2019. The existing revolving credit facility was also replaced with a new €80.0 million facility, which is available until May 15, 2023 and may be utilized to support working capital requirements, including letters of credit and bank guarantees.

Concurrent to the refinancing, the Company repaid the senior secured notes due 2020 and completed a private offering of €400.0 million of 3.25% senior secured notes due May 15, 2024 (the "Notes"), payable semi-annually in arrears. Both the new Senior debt and the Notes are guaranteed on a senior basis by the Company and certain subsidiaries thereof. Eligible transaction costs of approximately €9.8 million were capitalized as part of the refinancing and will be amortized over the life of the debt.

On December 20, 2017 we further amended and restated our Senior Facilities Agreement to reprice our \$610.0 million and €500.0 million term loan facilities. The margin was reduced by 50 basis points on the U.S. Dollar-denominated term loan and 25 basis points on the Euro-denominated term loan. There were no changes to the maturity dates of the term loan facilities. These amendments were accounted for as a modification of the existing loan, so that the modified cash flows are recognized at the original effective interest rate, with a corresponding reduction to the carrying value of the loans. We also established a \$50.0 million incremental term loan facility and a €58.0 million incremental term loan facility which were fully drawn down on January 31, 2018 and February 9, 2018 respectively. Eligible transaction costs of approximately €2.5 million have been capitalized as part of this amendment and will be amortized over the life of the debt.

On June 15, 2018, we amended and restated our Senior Facilities Agreement to establish an incremental U.S. Dollar denominated term loan that increased the amount of U.S. Dollar Term Loans by \$300.0 million to \$953.4 million. Principal outstanding under the Euro-denominated term loan remained unchanged at €558.0 million. The maturity dates remained May 2024 for both Euro and U.S. Dollar denominated Term Loans. The €80.0 million multicurrency revolving credit facility remained unchanged and matures in May 2023.

As at December 31, 2019 €17.2 million (December 31, 2018: €16.8 million) has been utilized for issuance of letters of credit and bank guarantees.

## Guarantees and secured assets

The Senior Facility Agreement that governs the Company's Senior debt, establishes security over the assets of the "Guarantor Group". The Guarantor Group consists of those companies that individually have more than 5% of consolidated total assets or EBITDA (as defined in the Senior Facilities Agreement) of the Company and in total comprise more than 80% of consolidated total assets or EBITDA at any testing date.

The Senior Facilities Agreement includes an excess cash flow calculation whereupon an amount of principal shall be repaid based upon terms including cash generated during the year and leverage. In 2019 the amount repaid was €12.1 million relating to the calculation performed at the end of 2018. Based on the calculation performed for December 31, 2019, there will be no excess cash flow repayment in 2020.

In connection with its pension scheme, Findus Sverige AB, a 100% owned subsidiary, is required to obtain credit insurance with PRI Pensionsgaranti ("PRI"), a credit insurance company that provides insurance annually against the risk of a sponsoring company's insolvency. In connection with such credit insurance, as at December 31, 2019 Findus Sverige AB has granted floating charges over certain assets in favor of PRI in an amount of SEK 300 million (€28.7 million) (December 31, 2018: €29.3 million) and Nomad Foods Limited has issued a parent guarantee to PRI which will not exceed SEK 450 million (€43.0 million) (December 31, 2018: €43.9 million) and has a maturity date of March 31, 2021.

## 22) Trade and other payables

	December 31, 2019	December 31, 2018
	€m	€m
<b>Current liabilities</b>		
Trade payables	306.5	321.1
Accruals and deferred income	109.4	125.3
Trade terms payable	59.4	79.5
Social security and other taxes	25.7	19.0
Other payables	18.8	19.0
Financial payables	4.1	7.7
Bank overdrafts	1.3	—
<b>Total current trade and other payables</b>	<b>525.2</b>	<b>571.6</b>
<b>Non-current liabilities</b>		
Accruals and deferred income	2.7	1.3
<b>Total non-current trade and other payables</b>	<b>2.7</b>	<b>1.3</b>
<b>Total trade and other payables</b>	<b>527.9</b>	<b>572.9</b>

## 23) Employee benefits

The Company operates defined benefit pension plans in Germany, Italy, Sweden and Austria, as well as various defined contribution plans in other countries.

### i. Defined contribution plans

The total expense relating to defined contribution plans for the year ended December 31, 2019 was €9.0 million (year ended December 31, 2018: €9.1 million, year ended December 31, 2017: €8.5 million)

### ii. Defined benefit plans

The Company operates partially funded defined benefit pension plans in Germany and Austria as well as unfunded plans in Sweden and Italy. In addition, an unfunded post-retirement medical plan is operated in Austria. In Germany and Italy, long term service awards are in operation and various other countries provide other employee benefits.

	December 31, 2019	December 31, 2018
	€m	€m
Net employee benefit obligations-Germany	151.3	128.0
Net employee benefit obligations-Sweden	71.7	60.5
Net employee benefit obligations-Italy	4.8	4.7
Net employee benefit obligations-Austria	5.8	4.3
<b>Sub-total</b>	<b>233.6</b>	<b>197.5</b>
Net employee benefit obligations- total of other countries	3.9	3.1
<b>Total net employee benefit obligations</b>	<b>237.5</b>	<b>200.6</b>

The net obligation of €3.9 million (December 31, 2018: €3.1 million) in respect of other countries is the aggregate of a number of different types of minor schemes, each one not being considered material individually or in aggregate. Consequently detailed disclosure of these schemes is not provided.

The amount included in the Statement of Financial Position arising from the Company's obligations in respect of its defined benefit retirement plans and post-employment benefits is as follows:

	Defined benefit retirement plans	Post- employment medical benefits and other benefits	Total
	€m	€m	€m
<b>December 31, 2019</b>			
Present value of unfunded defined benefit obligations	77.6	5.1	82.7
Present value of funded defined benefit obligations	237.3	—	237.3
<b>Subtotal present value of defined benefit obligations</b>	<b>314.9</b>	<b>5.1</b>	<b>320.0</b>
Fair value of plan assets	(86.4)	—	(86.4)
<b>Recognized liability for net defined benefit obligations</b>	<b>228.5</b>	<b>5.1</b>	<b>233.6</b>

	Defined benefit retirement plans	Post- employment medical benefits and other benefits	Total
	€m	€m	€m
<b>December 31, 2018</b>			
Present value of unfunded defined benefit obligations	65.8	4.8	70.6
Present value of funded defined benefit obligations	208.4	—	208.4
<b>Subtotal present value of defined benefit obligations</b>	<b>274.2</b>	<b>4.8</b>	<b>279.0</b>
Fair value of plan assets	(81.5)	—	(81.5)
<b>Recognized liability for net defined benefit obligations</b>	<b>192.7</b>	<b>4.8</b>	<b>197.5</b>

Movements in recognized liability for net defined benefit obligations:

	Defined benefit retirement plans	Post-employment medical benefits and other benefits	Total
	€m	€m	€m
<b>Opening balance January 1, 2019</b>	<b>192.7</b>	<b>4.8</b>	<b>197.5</b>
Current service cost	4.0	0.2	4.2
Interest cost	3.6	—	3.6
Actuarial losses	35.3	—	35.3
Contributions to plan	(0.6)	—	(0.6)
Benefits paid	(5.2)	—	(5.2)
Exchange adjustments	(1.3)	0.1	(1.2)
<b>As at December 31, 2019</b>	<b>228.5</b>	<b>5.1</b>	<b>233.6</b>

	Defined benefit retirement plans	Post-employment medical benefits and other benefits	Total
	€m	€m	€m
<b>Opening balance January 1, 2018</b>	<b>180.5</b>	<b>4.9</b>	<b>185.4</b>
Current service cost	3.9	(0.1)	3.8
Interest cost	3.6	—	3.6
Actuarial losses	12.9	—	12.9
Contributions to plan	(0.6)	—	(0.6)
Benefits paid	(5.4)	—	(5.4)
Exchange adjustments	(2.2)	—	(2.2)
<b>As at December 31, 2018</b>	<b>192.7</b>	<b>4.8</b>	<b>197.5</b>

Movements in present value of defined benefit obligations:

	Defined benefit retirement plans	Post-employment medical benefits and other benefits	Total
	€m	€m	€m
<b>Opening balance January 1, 2019</b>	<b>274.2</b>	<b>4.8</b>	<b>279.0</b>
Current service cost	4.0	0.2	4.2
Interest cost	5.0	—	5.0
Actuarial experience losses	0.2	—	0.2
Actuarial losses arising from changes in financial assumptions	43.2	—	43.2
Actuarial gains arising from changes in demographic assumptions	(3.0)	—	(3.0)
Contributions to plan	0.4	—	0.4
Benefits paid	(7.8)	—	(7.8)
Exchange adjustments	(1.3)	0.1	(1.2)
<b>As at December 31, 2019</b>	<b>314.9</b>	<b>5.1</b>	<b>320.0</b>

	Defined benefit retirement plans	Post-employment medical benefits and other benefits	Total
	€m	€m	€m
<b>Opening balance January 1, 2018</b>	<b>261.8</b>	<b>4.9</b>	<b>266.7</b>
Current service cost	3.9	(0.1)	3.8
Interest cost	5.2	—	5.2
Actuarial experience losses	0.5	—	0.5
Actuarial losses arising from changes in financial assumptions	13.8	—	13.8
Actuarial gains arising from changes in demographic assumptions	(1.1)	—	(1.1)
Contributions to plan	0.4	—	0.4
Benefits paid	(8.1)	—	(8.1)
Exchange adjustments	(2.2)	—	(2.2)
<b>As at December 31, 2018</b>	<b>274.2</b>	<b>4.8</b>	<b>279.0</b>

Movements in fair value of plan assets of defined benefit retirement plans:

	2019
	€m
<b>Opening balance January 1, 2019</b>	<b>81.5</b>
Interest income	1.4
Actuarial gains arising from the return on plan assets, excluding interest income	5.1
Contributions by employer	0.5
Contributions by members	0.5
Benefits paid	(2.6)
<b>As at December 31, 2019</b>	<b>86.4</b>

	2018 €m
<b>Opening balance January 1, 2018</b>	<b>81.3</b>
Interest income	1.6
Actuarial gains arising from the return on plan assets, excluding interest income	0.3
Contributions by employer	0.5
Contributions by members	0.5
Benefits paid	(2.7)
<b>As at December 31, 2018</b>	<b>81.5</b>

Expense recognized in the Consolidated Statement of Profit or Loss:

	Defined benefit retirement plans 2019 €m	Post- employment medical benefits and other benefits 2019 €m	Total 2019 €m
Current service cost	4.0	0.2	4.2
Interest cost	3.6	—	3.6
<b>For the year ended December 31, 2019</b>	<b>7.6</b>	<b>0.2</b>	<b>7.8</b>

	Defined benefit retirement plans 2018 €m	Post-employment medical benefits and other benefits 2018 €m	Total 2018 €m
Current service cost	3.9	(0.1)	3.8
Interest cost	3.6	—	3.6
<b>For the year ended December 31, 2018</b>	<b>7.5</b>	<b>(0.1)</b>	<b>7.4</b>

Current service cost is allocated between cost of sales and other operating expenses. Interest on net defined benefit obligation is disclosed in net financing costs.

Amount recognized in the Consolidated Statement of Comprehensive Income:

	Year ended December 31, 2019 €m	Year ended December 31, 2018 €m
Actuarial experience losses	0.2	0.5
Actuarial losses arising from changes in financial assumptions	43.2	13.8
Actuarial gains arising from changes in demographic assumptions	(3.0)	(1.1)
Actuarial gains arising from the return on plan assets, excluding interest income	(5.1)	(0.3)
<b>Total actuarial losses</b>	<b>35.3</b>	<b>12.9</b>
	Year ended December 31, 2019 €m	Year ended December 31, 2018 €m
<b>Cumulative amount of actuarial losses recognized in Consolidated Statement of Comprehensive Income</b>	<b>49.5</b>	<b>14.2</b>

The fair value of plan assets, all at quoted prices are as follows:

	December 31, 2019	December 31, 2018
	€m	€m
Equities	20.5	20.2
Debt instruments	40.3	47.2
Property	13.1	10.9
Other	12.5	3.2
<b>Total</b>	<b>86.4</b>	<b>81.5</b>

December 31, 2019	Defined benefit retirement plans				Post-employment medical benefits and other benefits	
	Germany	Sweden	Austria	Italy	Germany	Austria
Discount rate	1.15%	1.45%	1.00%	0.67%	0.45%	0.30%
Inflation rate	2.00%	1.80%	1.53%	1.50%	2.00%	1.53%
Rate of increase in salaries	2.80%	2.80%	2.00%	—	2.80%	3.00%
Rate of increase for pensions in payment	1%-2%	—	2.00%	—	—	—
Long term medical cost of inflation	—	—	—	—	—	2.00%

December 31, 2018	Defined benefit retirement plans				Post-employment medical benefits and other benefits	
	Germany	Sweden	Austria	Italy	Germany	Austria
Discount rate	1.75%	2.25%	2.00%	1.60%	1.20%	1.00%
Inflation rate	2.00%	2.00%	2.00%	1.50%	2.00%	2.00%
Rate of increase in salaries	2.80%	2.75%	3.00%	—	2.80%	3.00%
Rate of increase for pensions in payment	1%-2%	—%	2.00%	—	—	—
Long term medical cost of inflation	—	—	—	—	—	2.00%

In valuing the liabilities of the pension fund at December 31, 2019 and December 31, 2018, mortality assumptions have been made as indicated below. The assumptions relating to longevity underlying the pension liabilities at the financial year end date are based on standard actuarial mortality tables and include an allowance for future improvements in longevity. The assumptions are based on the following mortality tables:

- Germany: Richttafeln 2018 G
- Sweden: DUS 14
- Austria: AVÖ 2018 - P
- Italy: RG48

These four references are to the specific standard rates of mortality that are published and widely used in each country for the use of actuarial assessment of pension liabilities and take account of local current and future average life expectancy.

December 31, 2019 (years)	Germany	Sweden	Austria	Italy
Retiring at the end of the year:				
Male	21	22	23	19
Female	24	24	25	22

December 31, 2018 (years)	Germany	Sweden	Austria	Italy
Retiring at the end of the year:				
Male	21	22	23	19
Female	24	24	25	22

The history of experience adjustments from inception of the Company for the defined benefit retirement plans is as follows:

	December 31, 2019	December 31, 2018	December 31, 2017
	€m	€m	€m
Present value of defined benefit obligations	314.9	274.2	261.8
Fair value of plan assets	(86.4)	(81.5)	(81.3)
<b>Recognized liability in the scheme</b>	<b>228.5</b>	<b>192.7</b>	<b>180.5</b>
Experience losses on scheme liabilities	0.2	0.5	0.5
Experience gains on scheme assets	(5.1)	(0.3)	(1.9)

#### Post-employment medical benefits- sensitivity analysis

The effect of a 1% movement in the assumed medical cost trend rate is not significant.

#### Defined benefit obligation- sensitivity analysis

The effect of a 1% movement in the most significant assumptions for the year ended December 31, 2019 is as follows:

	Increase €m	Decrease €m
Discount rate	(51.4)	68.1
Inflation rate	43.5	(35.4)
Rate of increase in salaries	16.6	(12.3)
Rate of increase for pensions in payment	44.9	(36.3)

There are no deficit elimination plans for any of the defined benefit schemes. Expected contributions and payments to post-employment benefit plans for the period ending December 31, 2020 are €5.5 million. The weighted average duration of the defined benefit obligations is 19.6 years years.

## 24) Provisions

	Restructuring €m	Onerous/ unfavorable contracts €m	Provisions related to other taxes €m	Contingent consideration €m	Other €m	Total €m
<b>Balance at December 31, 2017</b>	<b>26.3</b>	<b>75.4</b>	<b>10.2</b>	<b>10.4</b>	<b>18.5</b>	<b>140.8</b>
Acquired through business combinations	—	—	—	—	7.0	7.0
Additional provision in the period	4.0	—	0.3	—	4.1	8.4
Release of provision	(1.5)	—	—	(2.7)	(2.0)	(6.2)
Utilization of provision	(16.5)	(4.3)	(4.7)	(6.5)	(2.3)	(34.3)
Unwinding of discounting	—	0.8	—	0.3	—	1.1
Foreign exchange	—	(3.1)	—	—	—	(3.1)
<b>Balance at December 31, 2018</b>	<b>12.3</b>	<b>68.8</b>	<b>5.8</b>	<b>1.5</b>	<b>25.3</b>	<b>113.7</b>
Impact of transition to IFRS 16	—	(66.9)	—	—	—	(66.9)
<b>Balance at January 1 2019</b>	<b>12.3</b>	<b>1.9</b>	<b>5.8</b>	<b>1.5</b>	<b>25.3</b>	<b>46.8</b>
Acquired through business combinations	—	—	—	—	1.9	1.9
Additional provision in the period	3.2	—	2.4	—	10.2	15.8
Release of provision	(1.5)	—	(1.3)	—	(5.7)	(8.5)
Utilization of provision	(6.7)	(0.9)	—	(1.5)	(0.5)	(9.6)
Unwinding of discounting	—	—	—	—	—	—
Foreign exchange	0.1	0.2	—	—	0.1	0.4
<b>Balance at December 31, 2019</b>	<b>7.4</b>	<b>1.2</b>	<b>6.9</b>	<b>—</b>	<b>31.3</b>	<b>46.8</b>
<b>Analysis of total provisions:</b>	<b>December 31, 2019</b>			<b>December 31, 2018</b>	<b>Impact of transition to IFRS 16</b>	<b>Restated balance as of December 31, 2018</b>
Current	40.9			44.3	(3.6)	40.7
Non-current	5.9			69.4	(63.3)	6.1
<b>Total</b>	<b>46.8</b>			<b>113.7</b>	<b>(66.9)</b>	<b>46.8</b>

### Restructuring

The €7.4 million (2018: €12.3 million) provision relates to committed plans for certain restructuring activities of exceptional nature which are due to be completed within the next 12 months.

The amounts have been provided based on the latest information available on the likely remaining expenditure required to complete the committed plans. €6.7 million has been utilized in the year ended December 31, 2019 which mainly relates to the closure of the production facilities in Bjuv as well as other reorganizational activities across the Company.

### Onerous/unfavorable contracts

Of the onerous/unfavorable contracts provision reported as of December 31, 2018, €66.9 million was held in relation to a lease for a warehouse and factory facility in Bjuv, Sweden. The factory is vacant and the Company currently anticipates the warehouse space will not be fully utilized by the Company or other third parties, so the lease was identified as being onerous. As disclosed in Note 2, upon transition to IFRS 16 Leases the full lease liability is now recognized in the Statement of Financial Position so that the provision has been released.

The remaining provision of €1.2 million relates to a service contract covering the same warehouse facility.

### Provisions relating to other taxes

The €6.9 million (2018: €5.8 million) provision relates to other, non-income taxes due to tax authorities after tax investigations within certain operating subsidiaries within the Nomad Group.

## Contingent consideration

During the year ended December 31, 2019, the contingent consideration provision was utilized to settle all remaining liabilities in respect of the Lutosa Brand, which is being used under license until 2020. This payment has been presented as an investing cash flow within the Statement of Cash Flows.

## Other

Other provisions include €6.6 million (December 31, 2018: €6.6 million) of contingent liabilities acquired as part of the Goodfella's Pizza acquisition that are indemnified by the Seller's insurance policies, €4.7 million (December 31, 2018: €5.0 million) of obligations in Italy, €6.0 million (December 31, 2018: €5.9 million) for asset retirement obligations, €1.9 million (December 31, 2018: nil) of pre-acquisition related liabilities recognized in the year as an adjustment to the acquisition date liabilities of Aunt Bessie's Limited, €8.3 million (December 31, 2018: €1.0 million) of additional provisions in the period relate to employer taxes on the Long-term Incentive Plan (see Note 8) which would become payable on the issuance of shares, and other obligations from previous accounting periods.

## 25) Share capital and capital reserves

### Share capital and capital reserve

	As at December 31, 2019	As at December 31, 2018
	€m	€m
<b>Authorized:</b>		
Unlimited number of Ordinary Shares with nil nominal value issued at \$10.00 per share	n/a	n/a
Unlimited number of Founder Preferred Shares with nil nominal value issued at \$10.00 per share	n/a	n/a
<b>Issued and fully paid:</b>		
194,542,957 (December 31, 2018: 174,229,051) Ordinary Shares with nil nominal value	2,109.7	1,751.7
1,500,000 (December 31, 2018: 1,500,000) Founder Preferred Shares with nil nominal value	10.6	10.6
<b>Total share capital and capital reserve</b>	<b>2,120.3</b>	<b>1,762.3</b>
Listing and share transaction costs	(24.9)	(13.8)
<b>Total net share capital and capital reserve</b>	<b>2,095.4</b>	<b>1,748.5</b>

### Ordinary Shares

	Issued and Repurchased Ordinary shares (in millions)
<b>Balance at December 31, 2017</b>	<b>165.3</b>
Shares issued in the year	8.9
<b>Balance at December 31, 2018</b>	<b>174.2</b>
Shares issued in the year	20.3
<b>Balance at December 31, 2019</b>	<b>194.5</b>

Note 8(b) sets out the Non-Executive Director, Initial Director Options and Director and Senior Management Restricted share awards.

On January 2, 2018, the Company issued a share dividend of 8,705,890 ordinary shares (the "Founder Preferred Share Dividend") calculated as 20% of the increase in the market price of our ordinary shares compared to 2015 dividend price of \$11.4824 multiplied by Preferred Share Dividend Equivalent. The Dividend Price used to calculate the Annual Dividend Amount was \$16.6516 (calculated based upon the volume weighted average price for the last ten consecutive trading days of 2017).

On January 2, 2019, the Company issued a share dividend of 171,092 ordinary shares calculated as 20% of the increase in the market price of our ordinary shares compared to 2017 dividend price of \$16.6516 multiplied by Preferred Share Dividend Equivalent. The Dividend Price used to calculate the Annual Dividend Amount was \$16.7538 (calculated based upon the volume weighted average price for the last ten consecutive trading days of 2018).

On March 22, 2019, the Company issued 20,000,000 ordinary shares in a public offering at \$20.00 per share for aggregate gross proceeds of \$400.0 million (€353.6 million). Directly attributed transaction costs of €11.1 million were incurred.

#### **Listing and share transaction costs**

As at December 31, 2019, cumulative listing and share transaction costs, which includes the total cost of admission and share issuance expenses, as well as costs associated with share repurchases were €24.9 million and are disclosed as a deduction directly against the capital reserve.

	€m
<b>At December 31, 2017</b>	<b>13.8</b>
Placement fees	—
<b>At December 31, 2018</b>	<b>13.8</b>
Share transaction costs	11.1
<b>At December 31, 2019</b>	<b>24.9</b>

#### **Founder Preferred Shares Annual Dividend Amount**

Each of the Founder Entities holds 750,000 shares for a total of 1,500,000 Founder Preferred Shares which were issued at \$10.00 per share. The Founder Preferred Shares are intended to incentivize the Founders to achieve Nomad's objectives. In addition to providing long term capital, the Founder Preferred Shares are structured to provide a dividend based on the future appreciation of the market value of the ordinary shares thus aligning the interests of the Founders with those of the holders of ordinary shares on a long term basis. The Founder Preferred Shares are also intended to encourage the Founders to grow Nomad to maximize value for holders of ordinary shares. There are no Founder Preferred Shares held in Treasury. Founder Preferred Shares confer upon the holder the following:

1. the right to one vote per Founder Preferred Share on all matters to be voted on by shareholders generally and to vote together with the holders of ordinary shares;
2. commencing on January 1, 2015 and for each financial year thereafter:
  - a. once the average price per ordinary share for the Dividend Determination Period, i.e. the last ten consecutive trading days of a year is at least \$11.50 (which condition has been satisfied for the year ended December 31, 2015), the right to receive a Founder Preferred Shares Annual Dividend Amount (as more fully described below), payable in Ordinary Shares or cash, at the Company's sole option; and
  - b. the right to receive dividends and other distributions as may be declared from time to time by the Company's board of directors with respect to the Ordinary Shares (such dividends to be distributed among the holders of Founder Preferred Shares, as if for such purpose the Founder Preferred Shares had been converted into Ordinary Shares immediately prior to such distribution) plus an amount equal to 20% of the dividend which would be distributable on such number of Ordinary Shares equal to the Preferred Share Dividend Equivalent (as defined below); and

3. in addition to amounts payable pursuant to clause 2 above, the right, together with the holders of Ordinary Shares, to receive such portion of all amounts available for distribution and from time to time distributed by way of dividend or otherwise at such time as determined by the Directors; and
4. the right to an equal share (with the holders of Ordinary Shares on a share for share basis) in the distribution of the surplus assets of Nomad on its liquidation as are attributable to the Founder Preferred Shares; and
5. the ability to convert into Ordinary Shares on a 1-for-1 basis (mandatorily upon a Change of Control or the seventh full financial year after an acquisition)

See Note 27 for further information on the Founder Preferred Shares Dividends issued.

## 26) Share-based compensation reserve

The Company's discretionary share award scheme, the LTIP, enables the Company's Compensation Committee to make grants ("Awards") in the form of rights over ordinary shares, to any Director, Non-Executive Director or employee of the Company. However, it is the Committee's current intention that Awards be granted only to Directors and senior management, whilst recognizing a separate annual Restricted Stock Award for Non-Executive Directors.

All Awards are to be settled by physical delivery of shares. Note 8(b) sets out the Non-Executive Director and Director and Senior Management Restricted share awards.

	Share based compensation reserve
	€m
<b>Balance as of January 1, 2019</b>	<b>9.4</b>
Non-Executive Director restricted share awards charge	0.9
Directors and Senior Management share awards charge	14.0
Vesting of Non-Executive Director restricted shares	(0.8)
Vesting of LTIP Share awards	(1.3)
Reclassification of awards for settlement of tax liabilities	0.4
<b>Balance as of December 31, 2019</b>	<b>22.6</b>

## 27) Founder Preferred Shares Dividend Reserve

Nomad has issued Founder Preferred Shares to its Founder Entities. A summary of the key terms of the Founder Preferred Shares is set out in Note 25.

The Founder Preferred Shares Annual Dividend Amount is structured to provide a dividend based on the future appreciation of the market value of the ordinary shares, thus aligning the interests of the Founders with those of the investors on a long term basis. Commencing in 2015, the Founder Preferred Share Annual Dividend Amount became payable because the Company's volume weighted average ordinary share price was above \$11.50 for the last ten consecutive trading days of the 2015 financial year.

The Preferred Shares Annual Dividend amount is determined with reference to the Dividend Determination Period of a financial year, ie the last ten consecutive trading days and calculated as 20% of the increase in the volume weighted average share price of our ordinary shares across the determination period compared to the highest price previously used in calculating the Founder Preferred Share Annual Dividend Amounts (currently \$21.7289) multiplied by 140,220,619 Preferred Share Dividend Equivalent (the "Preferred Share Dividend Equivalent"). The Preferred Share Dividend Equivalent is equal to the number of ordinary shares outstanding immediately following the Iglo Acquisition, but excluding the 13.7 million ordinary shares issued to the seller of the Iglo Group. The Founder Preferred Shares Annual Dividend Amount is paid for so long as the Founder Preferred Shares remain outstanding.

The amounts used for the purposes of calculating the Founder Preferred Shares Annual Dividend Amount and the relevant numbers of ordinary shares are subject to such adjustments for share splits, share dividends and certain other recapitalization events as the Directors in their absolute discretion determine to be fair and reasonable in the event

of a consolidation or sub-division of the ordinary shares in issue, as determined in accordance with Nomad Foods' Memorandum and Articles of Association.

Dividends on the Founder Preferred Shares are payable until the Founder Preferred Shares are converted into Ordinary Shares. The Founder Preferred Shares automatically convert on a one for one basis (i) on the last day of the seventh full financial year following our acquisition of Iglo Foods (or if such day is not a trading day, the next trading day) or (ii) in the event of a change of control (unless the independent directors of our board of directors determine otherwise). The holders of Founder Preferred Shares may also be converted to Ordinary shares on a one for one basis at the option of the holder. In the event of an automatic conversion, a dividend on the Founder Preferred Shares shall be payable with respect to the shorted dividend year on the trading day immediately prior to the conversion. In the event of an optional conversion by the holder, no dividend on the Founder Preferred Shares shall be payable with respect to the year in which the conversion occurred.

On December 29, 2017, the Company's Board of Directors approved a share dividend of an aggregate of 8,705,890 ordinary shares calculated as 20% of the increase in the market price of our ordinary shares compared to 2015 dividend price of \$11.4824 multiplied by Preferred Share Dividend Equivalent. The Dividend Price used to calculate the Annual Dividend Amount was \$16.6516 (calculated based upon the volume weighted average price for the last ten consecutive trading days of 2017) and the ordinary shares underlying the Founder Preferred Share Dividend were issued on January 2, 2018.

On December 31, 2018, the Company's Board of Directors approved a share dividend of an aggregate of 171,092 ordinary shares calculated as 20% of the increase in the market price of our ordinary shares compared to 2017 dividend price of \$16.6516 multiplied by the Preferred Share Dividend Equivalent. The Dividend Price used to calculate the Annual Dividend Amount was \$16.7538 (calculated based upon the volume weighted average price for the last ten consecutive trading days of 2018) and the ordinary shares underlying the Founder Preferred Share Dividend were issued on January 2, 2019.

On December 31, 2019, the Company's Board of Directors approved a share dividend of an aggregate of 6,421,074 ordinary shares calculated as 20% of the increase in the market price of our ordinary shares compared to 2018 dividend price of \$16.7538 multiplied by the Preferred Share Dividend Equivalent. The Dividend Price used to calculate the Annual Dividend Amount was \$21.7289 (calculated based upon the volume weighted average price for the last ten consecutive trading days of 2019) and the ordinary shares underlying the Founder Preferred Share Dividend were issued on January 2, 2020.

	Founder Preferred Shares Dividend Reserve
	€m
<b>Balance as of January 1, 2019</b>	<b>372.6</b>
Settlement of dividend through share issue	(2.5)
<b>Balance as of December 31, 2019</b>	<b>370.1</b>

## 28) Translation reserve

The translation reserve comprises all foreign exchange differences arising from the translation of the financial statements of foreign operations, as well as from the translation of liabilities that hedge the Company's net investment in a foreign subsidiary.

	Year ended December 31,		
	2019	2018	2017
	€m	€m	€m
<b>Balance as of January 1</b>	<b>88.8</b>	<b>83.2</b>	<b>84.0</b>
Foreign currency translation adjustments	19.2	2.2	(8.9)
Net deferred (losses)/gains on net investment hedges (1)	(13.2)	3.4	8.1
Total presented in Other Comprehensive Income	6.0	5.6	(0.8)
<b>Balance as of December 31</b>	<b>94.8</b>	<b>88.8</b>	<b>83.2</b>

(1) (Losses)/gains on net investment hedges are offset by € 19.0 million of gains (2018: losses of € 3.7 million, 2017: losses of €8.7 million) on GBP net investments included within the foreign currency translation adjustments.

The translation reserve as at December 31, 2019, includes €3.8 million (2018: €15.8 million) relating to continuing hedging relationships in respect of GBP net investments, as well as €46.4 million (2018: €47.6 million) relating to a discontinued hedging relationship in respect of GBP net investments.

## 29) Cash flow hedging reserve

The hedging reserve comprises the effective portion of the cumulative net change in the fair value of cash flow hedging instruments related to hedged transactions that have not yet occurred. Details of the Company's cash flow hedge accounting is detailed in Note 33. The reserve relating to forward currency contracts will be reclassified to the Statement of Profit or Loss within 12 months whilst the reserve relating to the cross currency interest rate swaps will be reclassified over the life of the instruments which mature in 2022.

The table below shows the movement in the cash flow hedging reserve during the year, including the gains or losses arising on the revaluation of hedging instruments during the year and the amount reclassified from Other Comprehensive Income ("OCI") to the Consolidated Statement of Profit or Loss in the year.

	Cross currency interest rate swaps	Forward currency contracts	Total Cash flow hedge reserve
	€m	€m	€m
<b>Balance as of January 1, 2017</b>	—	8.4	8.4
Change in fair value of hedging instrument recognized in OCI for the year	(56.8)	(19.7)	(76.5)
Reclassified to cost of goods sold	—	3.8	3.8
Reclassified from OCI to finance costs	56.3	—	56.3
Deferred tax	0.1	4.9	5.0
<b>Balance as of December 31, 2017</b>	<b>(0.4)</b>	<b>(2.6)</b>	<b>(3.0)</b>
Change in fair value of hedging instrument recognized in OCI for the year	49.5	20.3	69.8
Reclassified to cost of goods sold	—	(6.4)	(6.4)
Reclassified from OCI to finance costs	(47.9)	—	(47.9)
Deferred tax	(0.3)	(3.7)	(4.0)
<b>Balance as of December 31, 2018</b>	<b>0.9</b>	<b>7.6</b>	<b>8.5</b>
Change in fair value of hedging instrument recognized in OCI for the year	28.1	3.8	31.9
Reclassified to cost of goods sold	—	(21.8)	(21.8)
Reclassified from OCI to finance costs	(37.4)	—	(37.4)
Deferred tax	1.6	4.0	5.6
<b>Balance as of December 31, 2019</b>	<b>(6.8)</b>	<b>(6.4)</b>	<b>(13.2)</b>

## 30) Earnings per share

### Basic earnings per share

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
Profit for the period attributable to equity owners of the parent (€m)	154.0	171.2	136.5
Weighted average Ordinary Shares and Founder Preferred Shares	192,004,803	175,622,538	176,080,272
Basic earnings per share (€'s)	0.80	0.97	0.78

For the year ended December 31, 2019, basic earnings per share is calculated by dividing the profit attributable to the shareholders of the Company of €154.0 million (year ended December 31, 2018: €171.2 million, year ended December 31, 2017: €136.5 million) by the weighted average number of Ordinary Shares of 190,504,803

(December 31, 2018: 174,122,538, year ended December 31, 2017: 174,580,272) and Founder Preferred Shares of 1,500,000 (December 31, 2018: 1,500,000, year ended December 31, 2017: 1,500,000).

#### Diluted earnings per share

	Year ended December 31, 2019	Year ended December 31, 2018	Year ended December 31, 2017
Profit for the period attributable to equity owners of the parent (€m)	154.0	171.2	136.5
Weighted average Ordinary Shares and Founder Preferred Shares	198,425,877	175,793,631	184,786,162
Diluted earnings per share (€'s)	0.78	0.97	0.74

For the year ended December 31, 2019, the number of shares in the diluted earnings per share calculation include 6,421,074 shares for the dilutive impact of the Ordinary shares to settle the Founder Preferred Shares Annual Dividend for the year ended December 31, 2019, which were issued in January 2020. Refer to Notes 27 and 38 for further details.

#### 31) Reconciliation of liabilities arising from financing activities

The table below details changes in the Company's liabilities arising from financing activities, including both cash and non-cash changes. Liabilities arising from financing activities are those for which cash flows were, or future cash flows will be classified in the Company's consolidated statements of cash flows from financing activities.

	Cash / non-cash	Total loans and borrowings (Note 21) €m	Financial payables (Note 22) €m	Derivatives: (Net) Fair value of forward foreign exchange and currency swap contracts FVPTL €m	Derivatives: (Net) Fair value of cross currency interest rate swaps €m
<b>Opening balance January 1, 2019</b>		<b>1,764.3</b>	<b>7.7</b>	<b>0.1</b>	<b>(0.3)</b>
Restatement on adoption of IFRS 16 (Note 2)	Non-cash	120.8	—	—	—
<b>Restated opening balance January 1, 2019</b>		<b>1,885.1</b>	<b>7.7</b>	<b>0.1</b>	<b>(0.3)</b>
Cash inflow (1)	Cash	2.0	—	4.7	20.9
Cash outflow (2)	Cash	(44.0)	(72.7)	—	(4.0)
Interest accretion	Cash	5.3	73.7	—	—
Exchange movement	Non-cash	15.7	(1.1)	—	—
Fair value changes	Non-cash	—	—	(5.0)	(1.3)
Other non-cash adjustments	Non-cash	11.2	(3.5)	—	—
<b>Closing balance December 31, 2019</b>		<b>1,875.3</b>	<b>4.1</b>	<b>(0.2)</b>	<b>15.3</b>

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	Cash / non-cash	Total loans and borrowings (Note 21) €m	Financial payables (Note 22) €m	Derivatives: (Net) Fair value of forward foreign exchange and currency swap contracts FVPTL €m	Derivatives: (Net) Fair value of cross currency interest rate swaps €m
<b>Opening balance January 1, 2018</b>		<b>1,398.4</b>	<b>3.1</b>	<b>0.7</b>	<b>42.8</b>
Restatement on adoption of IFRS 9 (Note 2)	Non-cash	(21.8)	—	—	—
<b>Restated opening balance January 1, 2018</b>		<b>1,376.6</b>	<b>3.1</b>	<b>0.7</b>	<b>42.8</b>
Cash inflow (1)	Cash	355.6	3.4	0.8	13.8
Cash outflow (2)	Cash	(5.9)	(59.1)	—	(3.6)
Interest accretion	Cash	—	64.4	—	—
Acquired through business combinations	Non-cash	2.5	—	—	—
Exchange movement	Non-cash	32.7	(0.8)	—	—
Fair value changes	Non-cash	—	—	(1.4)	(53.3)
Other non-cash adjustments	Non-cash	2.8	(3.3)	—	—
<b>Closing balance December 31, 2018</b>		<b>1,764.3</b>	<b>7.7</b>	<b>0.1</b>	<b>(0.3)</b>

(1) Cash inflows from cross currency interest rate swaps are part of effective cash flow hedging relationships and are presented within interest paid within the Consolidated Statements of Cash Flows.

(2) Cash outflows from cross currency interest rate swaps are not part of a cash flow hedge and are presented within proceeds on settlement of derivatives within the Consolidated Statements of Cash Flows.

Note: IFRS 16 Leases became effective as of January 1, 2019, at which point operating lease liabilities have been added to loans and borrowings.

### 32) Cash flows from operating activities

	Note	Year ended December 31, 2019 €m	Year ended December 31, 2018 €m	Year ended December 31, 2017 €m
<b>Cash flows from operating activities</b>				
Profit for the period		<b>153.6</b>	<b>170.5</b>	<b>136.5</b>
Adjustments for:				
Exceptional items	7	54.5	17.7	37.2
Non-cash fair value purchase price adjustment of inventory	5	—	5.7	—
Share based payments expense		14.9	13.0	2.6
Depreciation and amortization		68.3	46.3	42.4
Loss on disposal and impairment of property, plant and equipment		0.6	0.3	0.5
Net finance costs	10	73.2	56.0	74.4
Taxation	11	56.7	56.6	32.0
<b>Operating cash flow before changes in working capital, provisions and exceptional items</b>		<b>421.8</b>	<b>366.1</b>	<b>325.6</b>
Decrease/(increase) in inventories		23.5	(20.2)	16.7
Increase in trade and other receivables		(34.4)	(10.8)	(1.6)
(Decrease)/increase in trade and other payables		(40.6)	64.5	18.1
Increase/(decrease) in employee benefit and other provisions		6.6	(2.0)	(0.3)
<b>Cash generated from operations before tax and exceptional items</b>		<b>376.9</b>	<b>397.6</b>	<b>358.5</b>

### 33) Financial risk management

#### Overall risk management policy

The Company's activities expose it to a variety of financial risks, including currency risk, interest rate risk, credit risk and liquidity risk.

The Company's overall risk management program focuses on minimizing potential adverse effects on the Company's financial performance. Where appropriate, the Company uses derivative financial instruments to hedge certain risk exposures.

Risk management is led by senior management and executed according to Company policy. All hedging activity is carried out by a central treasury department that evaluates and hedges financial risks according to forecasts provided by the Company's operating units.

#### Derivatives and hedging

Derivatives are used for economic hedging purposes and not as speculative investments. Where derivatives do not meet hedge accounting criteria, they are classified as 'fair value through profit or loss' for accounting purposes and are accounted for at fair value through profit or loss. They are presented as current assets or liabilities to the extent they are expected to be settled within 12 months after the end of the reporting period. The Company's derivative financial instruments are disclosed within Note 34.

Hedge accounting is applied to remove the accounting mismatch between the hedging instrument and the hedged item. The effective portion of the change in the fair value of the hedging instrument is accounted for in the translation reserve or cash flow hedge reserve through Other Comprehensive Income and will be recognized in profit or loss in the same period as the hedged item. Movements in the Company's translation reserve and cash flow hedging reserve are presented in Notes 28 & 29 respectively. The Company's accounting policy for hedge accounting is disclosed within Note 3.

As at December 31, 2019, the Company has \$935.6 million of U.S. Dollar LIBOR floating rate debt. The Company uses cross currency interest rate swaps to convert this into €845.1 million of debt with a fixed rate of interest, designated as a cash flow hedge. Additionally cross currency interest rate swaps have been entered into which receive €309.7 million with fixed interest flows and pays £260.8 million with fixed interest flows. £222.5 million of these swaps have been designated as a net investment hedge of the Company's investments in Pound Sterling.

In creating cash flow hedges over U.S. Dollar debt, the Company enters into cross currency hedging arrangements with similar critical terms as the hedged item, such as reference rate, reset dates, payment dates, and notional amount. As all critical terms matched during the year, the economic relationship was 100% effective. If due to certain circumstances one or more critical terms do not match, the economic relationship and the hedge effectiveness will be assessed quantitatively using a cumulative dollar-offset test.

Hedge ineffectiveness may occur due to:

- the credit value/debit value adjustment on the cross currency interest rate swaps that is not matched to the underlying liability, and/or
- differences in critical terms between the cross currency interest rate swaps and underlying liability, and/or
- the effects of the forthcoming reforms to LIBOR, because these might take effect at a different time and have a different impact on the hedged item and the hedging instrument.

There was no material ineffectiveness during 2019 in relation to the cross currency interest rate swaps.

The effects of the cash flow hedging instruments on the Company's financial position and performance are as follows:

<b>All amounts stated in €m, unless otherwise stated</b>	<b>December 31, 2019</b>	<b>December 31, 2018</b>
<b>Derivative financial instruments - cross currency interest rate swaps</b>		
Carrying amount of asset/(liability)	(18.5)	(25.6)
Notional amount (USD)	\$935.6	\$953.4
Maturity date	5/15/2022	5/15/2022
Change in fair value of outstanding hedging instruments since January 1	7.1	35.6
Change in value of hedged item used to determine effectiveness	(7.1)	(35.6)
Weighted average hedged rate for the year	1.11	1.11

The effects of the net investment hedging instruments on the Company's financial position and performance are as follows:

<b>All amounts stated in €m, unless otherwise stated</b>	<b>December 31, 2019</b>	<b>December 31, 2018</b>
<b>UK cross-currency interest rate swaps hedge</b>		
Carrying amount of cross-currency interest rate swaps	2.4	21.6
Notional amount (GBP)	£222.5	£224.7
Maturity Date	5/15/2022	5/15/2022
Change in fair value of cross-currency interest rate swaps as a result of foreign currency movements since January 1	(13.2)	3.7
Change in value of hedged item used to determine hedge effectiveness	13.2	(3.4)
Weighted average hedged rate for the year	1.19	1.19

The impact of the net investment hedge is taken directly to equity via the foreign currency translation reserve. The amount taken to this reserve that arose on the translation of the notional component of cross currency interest rate swaps was a loss of €13.2 million (2018: €3.4 million gain).

In determining hedge effectiveness for a net investment hedge, the economic relationship between hedging instrument and balance sheet exposure should be established including the notional amount and currency of the underlying investment. Hedge ineffectiveness may arise due to the value of the hedged item being less than the notional value of the hedging instrument. There was no material ineffectiveness in the net investment hedge in either 2019 or 2018. The ineffective amount taken through the Consolidated Statements of Profit or Loss in 2019 amounted to €nil (2018: €0.3 million).

The Company's policy is to reduce its risk of foreign exchange movements on material operating cash flows in currencies other than the operating entity's functional currency using forward foreign exchange contracts designated as cash flow hedges.

In order to qualify as a cash flow hedge, the hedging instrument must meet the requirements of IAS 39, including that the hedging instrument must align with the hedged item. The group designates the forward component of forward contracts as the hedging instrument.

Hedge ineffectiveness may arise if the timing of the forecast transaction changes from what was originally estimated.

The effects of the foreign currency hedging instruments on the Company's financial position and performance are as follows:

As at December 31, 2019	EUR/USD	GBP/USD	GBP/EUR	SEK/EUR	Other Currencies
	€m	€m	€m	€m	€m
<b>Derivative financial instruments - forward currency contracts</b>					
Carrying amount of asset/(liability)	2.1	(1.7)	(8.3)	(0.3)	(0.3)
Notional amount	220.6	56.5	217.4	70.1	42.3
Fair value (gains)/losses of outstanding hedging instruments since January 1	10.5	(0.7)	(10.9)	2.1	0.2
Weighted average hedge rate for the year	1.14	1.28	1.12	0.09	0.21

As at December 31, 2018	EUR/USD	GBP/USD	GBP/EUR	SEK/EUR	Other Currencies
	€m	€m	€m	€m	€m
<b>Derivative financial instruments - forward currency contracts</b>					
Carrying amount of asset/(liability)	8.4	2.0	1.4	(0.6)	0.5
Notional amount	224.9	47.2	97.4	65.6	38.5
Fair value losses of outstanding hedging instruments since January 1	14.1	4.5	1.9	1.5	0.8
Weighted average hedge rate for the year	1.20	1.34	1.12	0.10	—

Gains in the year from foreign exchange swap contracts used for liquidity purposes designated as fair value through the Consolidated Statements of Profit or Loss amounted to €4.8 million (2018: €1.0 million loss, 2017: €3.5 million loss).

Losses in the year from cross currency interest rate swap contracts designated as fair value through the Consolidated Statement of Profit or Loss amounted to €13.6 million (2018: €0.4 million gain, 2017: €3.9 million gain).

#### Market risk (including foreign exchange and interest rate risk)

In managing market risks, the Company aims to minimize the impact of short term fluctuations on the Company's earnings. Over the longer term, permanent changes in both foreign exchange rates and interest rates will have an impact on consolidated earnings.

Currency risk	Foreign currency risk on assets and liabilities in currencies other than functional currency
Foreign Exchange translation risk	The Company is exposed to foreign exchange translation risk arising from the translation of assets and liabilities denominated in currencies other than the Euro. Key areas of foreign currency exposure include non-Euro debt and investments in subsidiaries not held in Euro. Company policy is to mitigate the potential foreign exchange translation risk by converting where appropriate, borrowings into Euro. This has been achieved on the U.S. Dollar debt through the use of cross currency swaps designated as a cash flow hedge. The Company also hedges translational exposure on consolidation of GBP net assets through the use of currency swaps designated as a net investment hedge.
Mitigation & Impact on Statement of Financial Position	Foreign exchange translation risk resulting from the translation of non-Euro Denominated borrowings into Euros, to the extent that they are hedged will be mitigated by the translation of the underlying cross currency interest rate hedging arrangements.

As at 31 December 2019, 85.3% of the Company's Pound Sterling cross currency interest rate swaps are designated as hedges against the Company's investment in its UK subsidiaries (2018: 85.3%, 2017: 82.8%). As at December 31, 2019, this represented 104% of the net assets held in GBP (2018: 103%).

**Sensitivity analysis** During 2019, the Euro weakened by 5.3% against Pound Sterling (2018: strengthened by 1.3%).

The notional amount of Pound Sterling cross currency interest rate swaps designated as a Net Investment hedge is £222.5 million. A 1% movement in the GBP-EUR foreign exchange rate would result in a gain or loss of €2.6 million (2018: €2.5 million) which would be taken to equity.

Hedge accounting is not applied to 14.7% of the Company's Pound Sterling cross currency interest rate swaps. A 1% movement in the GBP-EUR foreign exchange rate would result in a gain or loss of €0.5 million (2018: 0.5 million).

In addition, the impact on the related interest charge for each 1% movement in the GBP-EUR foreign exchange rate would be to decrease or increase the charge by €0.1 million, (2018: €0.1 million) within the Company Consolidated Statements of Profit or Loss.

**Currency risk** Foreign currency risk on purchases

The Company is exposed to foreign exchange risk where a business unit has material operating cash flows in a currency other than the functional currency of that entity.

The most significant exposures for the Company are the purchase of raw materials, stock and services purchased in U.S. Dollars and Euros.

**Mitigation & Impact on Statement of Financial Position / Equity** The Company's policy is to reduce this risk by using foreign exchange forward contracts which are designated as cash flow hedges.

As at December 31, 2019, the fair value of forward contracts entered into to hedge the future purchase of U.S. Dollars is an asset of €0.4 million (2018: €10.6 million asset). All forecast transactions are still expected to occur. As at December 31, 2019, 82.7% (2018: 85.2%) of forecast future U.S. Dollar payments to the end of 2019 were hedged through the use of forward contracts and existing cash. All forward contracts have been designated as cash flow hedges and have a maturity within the next 12 months.

The fair value of the Euro forward contracts with reference to non-Euro functional currencies as at December 31, 2019, is a liability of €9.0 million (2018: €1.1 million). As at December 31, 2019, 95.2% (2018: 69.5%) of forecast future net Euro payments to the end of 2019 were hedged through the use of forward contracts and existing cash. All forward contracts have been designated as cash flow hedges and have a maturity within the next 12 months.

**Sensitivity analysis** During 2019, the Euro weakened by 5.3% against Pound Sterling (2018: strengthened by 1.3%, 2017: strengthened by 3.9%), weakened by 2% against the U.S.Dollar (2018: weakened by 4.5%, 2017: strengthened by 13.9%) and strengthened by 2.2% against the Swedish Krona (2018: strengthened by 4.1%, 2017: strengthened by 2.7%).

On an annualized 2019 basis, and assuming all other factors remain constant, for each 1% movement in value of the Euro against Pound Sterling, the impact to the Company profit or loss before tax would be approximately €1.4 million (2018: €1.2 million), excluding the impact of any forward contracts.

On an annualized 2019 basis, and assuming all other factors remain constant, for each 1% movement in value of the Euro against the U.S.Dollar, the impact to the Company profit or loss before tax would be approximately €2.8 million (2018: €2.3 million), excluding the impact of any forward contracts.

On an annualized 2019 basis, and assuming all other factors remain constant, for each 1% movement in value of the Euro against Swedish Krona, the impact to the Company profit or loss before tax would be approximately €1.2 million (2018: €1.3 million), excluding the impact of any forward contracts.

We do not expect purchase levels to be materially different in the coming year.

## Interest rate risk

**Description** The Company is exposed to changes in interest rates to the extent that it enters into floating rate borrowings.

### Mitigation & Impact on

**Equity / Income Statement** The Company's policy on interest rate risk is to mitigate the Company's exposure to fluctuations in interest rates.

As a result of decisions taken by national regulators, LIBOR and EURIBOR may become phased out and replaced by a replacement reference index. If LIBOR ceases to exist, we may need to renegotiate our Senior Facilities Agreement with our lenders and cross currency interest rate swaps, and continue to discuss the topic with our external banking counterparties. Our expectation is that these contracts can be aligned to the new benchmarks as they become known, and that it is highly probable that the existing hedging relationships can be continued.

**Sensitivity analysis** During 2019, three month EURIBOR rates remained below zero ( 2018: no change). Within the Euro denominated senior loans, there is a EURIBOR floor of 0%.

If interest rates were to move by 1%, this would have a correspondingly decrease or increase in the Company's profit/(loss) before tax by approximately €5.6 million (2018: €5.7 million).

## Credit risk

**Description** Credit risk arises on cash and cash equivalents, derivative financial instruments with banks and financial institutions, any short term investments, as well as on credit exposures to customers. See Note 18 for analysis of the trade receivables balance and Note 20 for analysis of the cash and cash equivalents balance.

**Mitigation** The Company limits counterparty exposures by monitoring each counterparty carefully and where possible, sets credit limits according to approved treasury policy. The Company limits its exposure to individual financial institutions by diversification of exposure across a range of financial institutions.

The credit quality of customers is assessed taking into account their financial position, past experience and other factors. Credit limits are set for customers and regularly monitored to mitigate ongoing payment risk.

## Liquidity risk

**Description** The Company is exposed to the risk that it is unable to meet its commitments as they fall due. The Company has financial conditions, including financial covenants as part of the Senior debt arrangements which it must comply with in order to maintain its current level of borrowings. There have been no breaches of the covenants throughout the year.

**Mitigation** The Company ensures that it has sufficient cash and available funding through regular cash flow and covenant forecasting. In addition, the Company has access to a revolving credit facility of €80.0 million, expiring in May 2023 and receivables financing facilities. This is available to finance working capital requirements and for general corporate purposes. Currently €17.2 million is utilized for letters of credit, overdrafts, customer bonds and bank guarantees.

## Capital risk management

The objective of the Company when considering total capital is to protect the value of capital investments and to generate returns on shareholder funds. Total capital is defined as including Loans and Borrowings and equity, including derivatives used for the purpose of hedging currency and interest exposure on Loans and Borrowings, but excluding the cashflow hedging reserve.

In support of its objectives, the Company may undertake actions to adjust its capital structure accordingly. Actions may include, but not limited to, raising or prepayment of Borrowings together with related derivative instruments, issuance of additional share capital, payment of dividends or share buy-back.

### Maturity analysis

The USD denominated term loans include the requirement to repay 1% of notional per annum. In 2019 this amounts to €8.6 million (2018: €8.4 million) In addition, the Senior Facilities Agreement also includes an excess cashflow calculation whereupon an amount of principal shall be repaid based upon terms including cash generated and leverage. Based upon the calculation as at December 31, 2019, no excess cashflow will be repayable in 2020 (2018: €12.1 million, repaid in 2019). Amounts have been reflected as current borrowings in the tables below.

The tables below show a maturity analysis of contractual undiscounted cash flows prepared using forward interest rates where applicable, showing items at the earliest date on which the Company could be required to pay the liability:

<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>Over 5 years</b>	<b>Total</b>
	€m	€m	€m	€m	€m	€m	€m
Borrowings-principal	10.8	9.6	8.6	8.6	1,753.4	—	1,791.0
Borrowings-interest	61.1	59.8	59.4	59.1	25.0	—	264.4
Forward contracts Sell	666.2	—	—	—	—	—	666.2
Forward contracts Buy	(658.5)	—	—	—	—	—	(658.5)
Cross Currency Interest Rate Swaps Pay	38.8	38.6	1,138.4	—	—	—	1,215.8
Cross Currency Interest Rate Swaps Receive	(49.4)	(48.2)	(1,136.0)	—	—	—	(1,233.6)
Lease Liabilities	16.8	15.2	13.3	7.5	7.0	85.7	145.5
Trade and other payables excluding non-financial liabilities	483.4	—	—	—	—	—	483.4
<b>Total</b>	<b>569.2</b>	<b>75.0</b>	<b>83.7</b>	<b>75.2</b>	<b>1,785.4</b>	<b>85.7</b>	<b>2,674.2</b>

As detailed in Note 2, following the adoption of IFRS 16 Leases on January 1, 2019, loans and borrowings now include lease liabilities.

<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>Over 5 years</b>	<b>Total</b>
	€m	€m	€m	€m	€m	€m	€m
Borrowings-principal	23.4	8.4	8.4	8.4	8.4	1,737.4	1,794.4
Borrowings-interest	67.9	67.6	67.1	66.7	66.3	26.3	361.9
Forward contracts Sell	671.9	—	—	—	—	—	671.9
Forward contracts Buy	(686.7)	—	—	—	—	—	(686.7)
Cross Currency Interest Rate Swaps Pay	40.1	39.8	39.6	1,130.8	—	—	1,250.3
Cross Currency Interest Rate Swaps Receive	(56.7)	(56.4)	(55.9)	(1,130.1)	—	—	(1,299.1)
Trade and other payables excluding non-financial liabilities	534.9	—	—	—	—	—	534.9
<b>Total</b>	<b>594.8</b>	<b>59.4</b>	<b>59.2</b>	<b>75.8</b>	<b>74.7</b>	<b>1,763.7</b>	<b>2,627.6</b>

### 34) Financial instruments

#### Categories of financial instruments

The following table shows the carrying amount of each Statement of Financial Position class split into the relevant category of financial instrument as defined in IFRS 9 'Financial Instruments'.

	Financial assets at amortized cost	Financial Assets at Fair Value through profit or loss	Derivatives at fair value through profit or loss	Derivatives used for hedging	Financial liabilities at amortized cost	Total
	€m	€m	€m	€m	€m	€m
<b>2019</b>						
<b>Assets</b>						
Trade receivables	143.6	—	—	—	—	143.6
Derivative financial instruments	—	—	1.0	20.4	—	21.4
Cash and cash equivalents	747.4	78.7	—	—	—	826.1
Short - term investments	—	25.0	—	—	—	25.0
<b>Liabilities</b>						
Trade and other payables excluding non-financial liabilities	—	—	—	—	(483.4)	(483.4)
Derivative financial instruments	—	—	—	(44.9)	—	(44.9)
Loans and borrowings (1)	—	—	—	—	(1,884.2)	(1,884.2)
<b>Total</b>	<b>891.0</b>	<b>103.7</b>	<b>1.0</b>	<b>(24.5)</b>	<b>(2,367.6)</b>	<b>(1,396.4)</b>

(1) Loans and borrowings excludes €8.9 million of deferred borrowing costs which are included within €1,875.3 million of total loans and borrowings in Note 21.

	Financial assets at amortized cost	Financial Assets at Fair Value through profit or loss	Derivatives at fair value through profit or loss	Derivatives used for hedging	Financial liabilities at amortized cost	Total
	€m	€m	€m	€m	€m	€m
<b>2018</b>						
<b>Assets</b>						
Trade receivables	98.3	—	—	—	—	98.3
Derivative financial instruments	—	—	4.6	44.5	—	49.1
Cash and cash equivalents	297.0	30.6	—	—	—	327.6
<b>Liabilities</b>						
Trade and other payables excluding non-financial liabilities	—	—	—	—	(534.9)	(534.9)
Derivative financial instruments	—	—	(0.3)	(36.6)	—	(36.9)
Loans and borrowings (2)	—	—	—	—	(1,775.2)	(1,775.2)
<b>Total</b>	<b>395.3</b>	<b>30.6</b>	<b>4.3</b>	<b>7.9</b>	<b>(2,310.1)</b>	<b>(1,872.0)</b>

(2) Loans and borrowings excludes €10.9 million of deferred borrowing costs which are included within €1,764.3 million of total non-current loans and borrowings in Note 21.

## Fair values

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. In determining fair value, Nomad uses various methods including market, income and cost approaches. Based on these approaches, Nomad utilizes certain assumptions that market participants would use in pricing the asset or liability, including assumptions about risk and the risks inherent in the inputs to the valuation technique. These inputs may be readily observable, market corroborated, or generally unobservable inputs. The fair value hierarchy ranks the quality and reliability of the information used to determine fair values.

Financial assets and liabilities carried at fair value will be classified and disclosed in one of the following three categories:

Level 1—Quoted prices for identical assets and liabilities traded in active exchange markets, such as the New York Stock Exchange.

Level 2—Observable inputs other than Level 1 including quoted prices for similar assets or liabilities, quoted prices in less active markets, or other observable inputs that can be corroborated by observable market data.

Level 3—Unobservable inputs supported by little or no market activity for financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation; also includes observable inputs for non binding single dealer quotes not corroborated by observable market data. Where market information is not available to support internal valuations, reviews of third party valuations are performed.

While Nomad believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different estimate of fair value at the reporting date.

The following is a description of the valuation methodologies and assumptions used for estimating the fair values of financial instruments held by the Company.

### (i) Derivative financial instruments

Derivative financial instruments are held at fair value. There is no difference between carrying value and fair value. The valuation technique utilized by the Company maximizes the use of observable market data where it is available. All significant inputs required to fair value the instrument are observable. The Company has classified its derivative financial instruments as level 2 instruments as defined in IFRS 13 'Fair value measurement'.

### (ii) Trade and other payables/receivables

The notional amount of trade and other payables/receivables are deemed to be carried at fair value, short term and settled in cash.

### (iii) Cash and cash equivalents

The carrying value of cash and cash equivalents is deemed to equal fair value.

### (iv) Short-term investments

Short-term investments are valued using inputs that are derived principally from or corroborated by observable market data. The Company has classified these as level 2 instruments as defined in IFRS 13 "Fair value measurement".

### (v) Interest bearing loans and liabilities

The fair value of secured notes is determined by reference to price quotations in the active market in which they are traded. They are classified as level 1 instruments. The fair value of the senior loans is calculated by discounting the expected future cash flows at the year end's prevailing interest rates. They are classified as level 2 instruments. There is no requirement to determine or disclose the fair value of lease liabilities.

	Fair value		Carrying value	
	December 31, 2019	December 31, 2018	December 31, 2019	December 31, 2018
	€m	€m	€m	€m
Senior EUR/USD loans	1,396.9	1,347.2	1,371.9	1,372.2
Other external debt	3.3	3.0	3.3	3.0
2024 fixed rate senior secured notes	411.3	395.2	400.0	400.0
Less deferred borrowing costs	—	—	(8.9)	(10.9)
	<b>1,811.5</b>	<b>1,745.4</b>	<b>1,766.3</b>	<b>1,764.3</b>

## Derivatives

	As at December 31, 2019	As at December 31, 2018
	€m	€m
Cross Currency Interest Rate Swaps	17.5	35.7
Forward foreign exchange contracts	3.9	13.4
<b>Total assets</b>	<b>21.4</b>	<b>49.1</b>
Cross Currency Interest Rate Swaps	(32.8)	(35.4)
Forward foreign exchange contracts	(12.1)	(1.5)
<b>Total liabilities</b>	<b>(44.9)</b>	<b>(36.9)</b>
<b>Total</b>	<b>(23.5)</b>	<b>12.2</b>

## Offsetting of derivatives

Derivative contracts are held under International Swaps and Derivatives Association (ISDA) agreements with financial institutions. An ISDA is an enforceable master netting agreement that permits the Company to settle net in the event of default.

The following table sets out the carrying amounts of recognized financial instruments that are subject to the above agreements.

	Gross amount of financial instruments as presented upon balance sheet	Related financial instruments that are offset	Net amount
As at Dec 31, 2019	€m	€m	€m
Derivatives - assets	21.4	(21.4)	—
Derivatives - liabilities	(44.9)	21.4	(23.5)

	Gross amount of financial instruments as presented upon balance sheet	Related financial instruments that are offset	Net amount
As at Dec 31, 2018	€m	€m	€m
Derivatives - assets	49.1	(29.8)	19.3
Derivatives - liabilities	(36.9)	29.8	(7.1)

### 35) Operating leases

As detailed in Note 2, following the adoption of IFRS 16 Leases on January 1, 2019, a number of leased assets have been capitalized. Certain operating leases do not qualify for capitalization.

Non-cancellable operating lease rentals relate to total future aggregate minimum lease payments and are payable as follows:

	As at December 31, 2019	As at December 31, 2018
	€m	€m
Less than one year	2.1	22.2
Between one and three years	3.6	38.5
Between three and five years	1.9	26.0
More than five years	—	94.9
<b>Total</b>	<b>7.6</b>	<b>181.6</b>

Non-cancellable operating leases relate to equipment, motor vehicles and land and buildings and may be subject to contractual annual increases linked to inflation indices. The payments shown above exclude the impact of these contractual increases which cannot be reliably estimated.

### 36) Capital commitments

Capital expenditure contracted for at the end of the reporting period but not yet incurred is as follows:

	As at December 31, 2019	As at December 31, 2018
	€m	€m
Property, plant and equipment	11.5	6.8
Intangible assets	0.6	2.8
<b>Total</b>	<b>12.1</b>	<b>9.6</b>

### 37) Related parties

#### Founder Preferred Shares

Nomad has issued Founder Preferred Shares to its Founder Entities.

The conditions of the Founder Preferred Shares Annual Dividend Amount in 2017, 2018 and 2019 were met and further details relating to these dividends is set out in Note 27.

#### Advisory Services Agreements

On June 15, 2015, the Company entered into an Advisory Services Agreement with Mariposa Capital, LLC, an affiliate of Mr. Franklin, and TOMS Capital LLC, an affiliate of Mr. Gottesman. Pursuant to the terms of the Advisory Services Agreement, Mariposa Capital, LLC and TOMS Capital LLC provide high-level strategic advice and guidance to the Company. Under the terms of the Advisory Services Agreement, Mariposa Capital, LLC and TOMS Capital LLC are entitled to receive an aggregate annual fee equal to \$2.0 million, payable in quarterly installments. This agreement expires on June 1st annually and will be automatically renewed for successive one-year terms unless any party notifies the other parties in writing of its intention not to renew the agreement no later than 90 days prior to the expiration of the term. The agreement may only be terminated by the Company upon a vote of a majority of its directors. In the event that the agreement is terminated by the Company, the effective date of the termination will be six months following the expiration of the initial term or a renewal term, as the case may be.

Expenses of €0.2 million and €0.3 million for certain travel costs of Mariposa Capital, LLC and TOMS Capital LLC respectively in the year ending December 31, 2019 were reimbursed (year ended December 31, 2018: €0.2 million and €0.1 million respectively).

## **Directors and Key Management**

All significant management decision making authority is vested within the Board of Directors and the Executive Team, therefore key management are considered to be the Directors and Executive Officers. Their remuneration has been disclosed in Note 9.

As part of the sale of the Iglo Group to Nomad Foods Limited, former Executive Officer and former Non-Executive Director, Paul Kenyon acquired shares in the Company from Birds Eye Iglo Group LP Inc. Mr. Kenyon acquired 37,060 shares at a price of \$10.50 (€9.71) per share which was deemed to be at fair value. In connection with the Permira share repurchase in 2017 (and upon removal of certain transfer restrictions relating to their shares), Mr. Kenyon sold 26,372 shares, respectively, and no further shares were sold in 2018 or 2019.

Lord Myners of Truro CBE, a Non-Executive Director, holds 95,652 Ordinary Shares in Nomad Foods Limited which includes 50,000 Ordinary Shares granted pursuant to a five-year option that expires on June 2, 2020 at a purchase price of \$11.50 per share.

The Non-Executive Directors are eligible to an annual restricted stock grant issued under the LTIP which will vest on the earlier to occur of the date of the Company's annual meeting of shareholders or thirteen months from the date of grant. Details of the annual restricted stock grants under the LTIP can be found in Note 8(b).

As part of its long term incentive initiatives, the Company has granted 4,518,964 restricted shares to the management team (the "Management Share Awards"). The Directors and Executive Officers have all been awarded shares. The associated performance metrics and valuation method is detailed in Note 8(b).

## **38) Significant events after the Statement of Financial Position date**

On December 31, 2019, the Company's Board of Directors approved a Founder Preferred Share dividend of an aggregate of 6,421,074 Ordinary Shares calculated as 20% of the increase in the market price of our Ordinary Shares compared to 2018 dividend price of \$16.7538 multiplied by Preferred Share Dividend Equivalent. The Dividend Price used to calculate the Annual Dividend Amount was \$21.7289 (calculated based upon the volume weighted average price for the last ten consecutive trading days of 2019) and the Ordinary Shares underlying the Founder Preferred Share Dividend were issued on January 2, 2020.

## Item 19. Exhibits

The following exhibits are filed as part of this annual report:

### EXHIBIT INDEX

Exhibit No.	Exhibit Description	Incorporation by Reference			Filed with this Annual Report
		Form	Exhibit No.	Period Covered or Date of Filing	
<a href="#">1.1</a>	Amended and Restated Memorandum and Articles of Association.	6-K (001-37669)	99.1	1/14/2016	
<a href="#">2.1</a>	Registration Rights Agreement dated as of June 1, 2015 among Nomad Holdings Limited, Birds Eye Iglo Limited Partnership Inc, Mariposa Acquisition II, LLC, TOMS Acquisition I LLC, TOMS Capital Investments LLC and funds managed by Pershing Square.	F-1 (333-208181)	4.1	11/24/2015	
<a href="#">2.2</a>	Indenture dated as of May 3, 2017 among Nomad Foods Bondco PLC, Nomad Foods Limited, Deutsche Trustee Company Limited, Deutsche Bank AG, London Branch, Deutsche Bank Luxembourg S.A., and Credit Suisse AG, London Branch and the Subsidiary Guarantors named therein.	6-K (001-37669)	99.3	5/3/2017	
<a href="#">2.3</a>	Description of Securities.				X
<a href="#">4.1</a>	Share Sale and Purchase Agreement, dated as of October 29, 2015, among Liongem Sweden 1 AB, Iglo Foods Group Limited and Nomad Foods Limited	F-1 (333-208181)	2.2	11/24/2015	
<a href="#">4.2</a>	Intercreditor Agreement, originally dated as of July 3, 2014, as amended and restated from time to time including, pursuant to the 2017 Amendment and Restatement Agreement among Nomad Foods Limited, Credit Suisse AG, London Branch, Deutsche Bank Company Limited and certain entities named therein.	6-K (001-37669)	99.2	5/3/2017	
<a href="#">4.3</a>	Amendment and Restatement Agreement, dated June 15, 2018, relating to Senior Facilities Agreement, originally dated July 3, 2014, as amended and restated from time to time, including pursuant to Amendment and Restatement Agreement dated December 20, 2017 for Nomad Foods Limited with Credit Suisse AG, London Branch.				X
<a href="#">4.4</a>	Nomad Foods Limited Amended and Restated Long-Term 2015 Incentive Plan.				X
<a href="#">4.5</a>	Nomad Foods Limited Long Term 2015 Incentive Plan Restricted Share Unit Agreement.				X
<a href="#">4.6</a>	Service Agreement between the Company and Stéfan Descheemaeker.	F-1 (333-208181)	10.3	11/24/2015	
<a href="#">4.7</a>	Service Agreement, dated as of February 15, 2018, between the Company and Samy Zekhout.	20-F (001-37669)	4.7	3/22/2018	
<a href="#">4.8</a>	Advisory Services Agreement, dated as of June 15, 2015, among Nomad Foods Limited, Mariposa Capital, LLC and TOMS Capital LLC.	F-1 (333-208181)	10.5	11/24/2015	
<a href="#">8.1</a>	List of Significant Subsidiaries.				X
<a href="#">12.1</a>	Rule 13a-14(a)/15d-14(a) Certification of Chief Executive Officer.				X

Exhibit No.	Exhibit Description	Incorporation by Reference			Filed with this Annual Report
		Form	Exhibit No.	Period Covered or Date of Filing	
<a href="#">12.2</a>	Rule 13a-14(a)/15d-14(a) Certification of Chief Financial Officer.				X
<a href="#">13.1</a>	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				X
<a href="#">13.2</a>	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				X
<a href="#">15.1</a>	Consent of PricewaterhouseCoopers LLP				X
101.INS	XBRL Instance Document				X
101.SCH	XBRL Taxonomy Extension Schema Document				X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document				X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document				X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document				X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document				X

## SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this Annual Report on Form 20-F on its behalf.

Date: February 27, 2020

NOMAD FOODS LIMITED

By: /s/ Samy Zekhout

Name: Samy Zekhout

Title: Chief Financial Officer

## **NOMAD FOODS LIMITED**

### **DESCRIPTION OF SECURITIES**

As of December 31, 2019, Nomad Foods Limited had one class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended – its ordinary shares of no par value (the “Ordinary Shares”). References herein to “we,” “us,” “our” and “Company” refer to Nomad Foods Limited.

The following description of our securities is a summary and does not purport to be complete. It is subject to and qualified in its entirety by reference to our Amended and Restated Memorandum and Articles of Association, which we refer to as our Memorandum and Articles, which are incorporated by reference as an exhibit to the Company’s Annual Report on Form 20-F filed with the Securities and Exchange Commission of which this Exhibit is a part. We encourage you to read our Memorandum and Articles and the applicable provisions of British Virgin Islands law for additional information.

#### **General**

Our Memorandum and Articles authorize the issuance of an unlimited number of shares of no par value, which may be Ordinary Shares or founder preferred shares (the “Founder Preferred Shares”). As of December 31, 2019, 194,542,957 Ordinary Shares and 1,500,000 Founder Preferred Shares were issued and outstanding. Our Ordinary Shares are listed on the New York Stock Exchange under the trading symbol “NOMD”.

#### **Ordinary Shares**

The following summarizes the rights of holders of our Ordinary Shares:

##### ***Voting Rights***

Each holder of our Ordinary Shares is entitled to one vote per Ordinary Share on all matters to be voted on by shareholders generally and to vote together with the holders of Founder Preferred Shares. The affirmative vote of a majority of the votes of the shares entitled to vote which either were present at a meeting and were voted, or consented in writing, is required to approve action on a matter.

##### ***Dividends***

Subject to the rights of the holders of the Founder Preferred Shares, the holders of our Ordinary Shares are entitled to share ratably in dividends and other distributions as may be declared from time to time by our board of directors out of funds legally available for that purpose, if any.

##### ***Dissolution; Liquidation***

Subject to the BVI Business Companies Act, 2004 (as amended) (the “BVI Act”), upon our liquidation, dissolution or winding up, the holders of our Ordinary Shares, along with holders of our Founder Preferred Shares, will be entitled to the distribution of the remaining assets pro rata to the number of fully paid up shares held by each holder relative to the total number of issued and fully paid up Ordinary Shares as if the fully paid up Founder Preferred Shares had been converted into Ordinary Shares immediately prior to the winding up.

##### ***Transfer***

Subject to the BVI Act and the terms of the Memorandum and Articles, any shareholder may transfer all or any portion of his, her or its Ordinary Shares.

##### ***Variation of Rights***

As permitted by British Virgin Islands law and our Memorandum and Articles, we may vary the rights attached to any class, including our Ordinary Shares, with the written consent of at least 50% of the holders of each class of shares affected or by a resolution passed by at least 50% of the votes cast by eligible holders of the issued shares of the affected class at a separate meeting of the holders of that class.

##### ***Other Matters***

Our Ordinary Shares carry no preemptive rights and are not redeemable (other than by agreement between the Company and the relevant shareholder) or entitled to the benefits of any sinking fund or liable for further capital calls. There are no limitations on the rights to own securities, including the rights of non-resident or foreign shareholders to hold or exercise voting rights on the securities imposed by British Virgin Islands law or by the Memorandum and Articles.

#### **Founder Preferred Shares**

##### ***Defined Terms***

In the following summary of the material provisions of our Founder Preferred Shares and our Memorandum and Articles, the following words have the following meanings:

*Acquisition* means the Company’s acquisition of Iglo Foods Holdings Limited and its consolidated subsidiaries on June 1, 2015;

*Admission* means the initial admission of the Ordinary Shares to the standard listing segment of the Official List maintained by the UKLA and to trading on the London Stock Exchange’s main market for listed securities, which occurred on April 15, 2014;

*Annual Dividend Amount* means:  $A \times B$  where:

A = an amount equal to 20% of the increase (if any) in the value of an Ordinary Share. Such increase shall be calculated as being the difference between (i) the Dividend Price for that Dividend Year and (ii) (a) if no Annual Dividend Amount has previously been paid, a price of US\$10.00 per Ordinary Share, or (b) if an Annual Dividend Amount has previously been paid, the highest Dividend Price for any prior Dividend Year, provided that in each case such amount is subject to such adjustment either as the directors in their absolute discretion determine to be fair and reasonable in the event of a consolidation or sub-division of the Ordinary Shares in issue after the date of Admission or otherwise as determined in accordance with Article 5.4 of our Memorandum and Articles; and B = the Preferred

Share Dividend Equivalent;

*Average Price* means for any security, as of any date (or relevant period, as applicable): (i) in respect of Ordinary Shares or any other security, the volume weighted average price for such security on the London Stock Exchange as reported by Bloomberg through its "Volume at Price" functions; (ii) if the London Stock Exchange is not the principal securities exchange or trading market for that security, the volume weighted average price of that security on the principal securities exchange or trading market on which that security is listed or traded as reported by Bloomberg through its "Volume at Price" functions; (iii) if the foregoing do not apply, the last closing trade price of that security in the over-the-counter market on the electronic bulletin board for that security as reported by Bloomberg; or (iv) if no last closing trade price is reported for that security by Bloomberg, the last closing ask price of that security as reported by Bloomberg. If the Average Price cannot be calculated for that security on that date on any of the foregoing bases, the Average Price of that security on such date shall be the fair market value as mutually determined by the Company and the holders of the majority of outstanding Founder Preferred Shares (acting reasonably);

*Bloomberg* means Bloomberg Financial Markets;

*Change of Control* means the acquisition of Control of the Company by any person or party (or by any group of persons or parties who are acting in concert);

*Control* means (a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to: (i) cast, or control the casting of, more than 50 (fifty) per cent. of the maximum number of votes that might be cast at a meeting of Members; or (ii) appoint or remove all, or the majority, of the directors or other equivalent officers of the Company; or (iii) give directions with respect to the operating and financial policies of the Company with which the directors or other equivalent officers of the Company are obliged to comply; and/or (b) the holding beneficially of more than 50 (fifty) per cent. of the issued shares of the Company (excluding any issued shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital);

*Dividend Determination Period* means the last ten consecutive Trading Days of a Dividend Year;

*Dividend Price* means the Average Price per Ordinary Share for the Dividend Determination Period in the relevant Dividend Year;

*Dividend Year* means the period commencing on the date of Admission and ending on the last day of the Company's first financial year, and thereafter each financial year of the Company;

*London Stock Exchange* means the London Stock Exchange plc;

*paid up* in relation to shares means fully paid or credited as fully paid, but excludes partly paid shares;

*Payment Date* means a day no later than ten Trading Days after the last day of the relevant Dividend Year, except in respect of any Annual Dividend Amount becoming due on the Trading Day immediately prior to the date of commencement of the Company's liquidation, in which case the Payment Date shall be such Trading Day, and except in respect of any Annual Dividend Amount becoming due on account of an automatic conversion immediately upon a Change of Control pursuant to Article 5.1(a) of the Memorandum and Articles, in which case the Payment Date shall be the Trading Day immediately after such event;

*Preferred Share Dividend Equivalent* means 140,220,619 Ordinary Shares, being such number of Ordinary Shares outstanding immediately following the Acquisition but excluding any Ordinary Shares issued to shareholders or other beneficial owners of a company or business acquired pursuant to or in connection with the Acquisition (which total number is subject to such adjustment either as the directors in their absolute discretion determine to be fair and reasonable in the event of a consolidation or sub-division of the Ordinary Shares in issue after the date of admission to the LSE or otherwise as determined in accordance with Article 5.4 of the Memorandum and Articles relating to the treatment of stock splits, stock dividends and similar events); and

*Trading Day* means any day on which the New York Stock Exchange (or such other applicable securities exchange or quotation system) is open for business and on which the Ordinary Shares may be dealt in (other than a day on which the New York Stock Exchange (or such other applicable securities exchange or quotation system) is scheduled to or does close prior to its regular weekday closing time).

The following summarizes the rights of holders of our Founder Preferred Shares:

#### ***Voting Rights***

Each holder of our Founder Preferred Shares is entitled to one vote per Founder Preferred Share on all matters to be voted on by shareholders generally and to vote together with the holders of Ordinary Shares. The affirmative vote of a majority of the votes of the shares entitled to vote which either were present at a meeting and were voted, or consented in writing, is required to approve action on a matter.

#### ***Dividends***

Commencing on January 1, 2015 and for each financial year thereafter:

- a. once the average price per Ordinary Share for the Dividend Determination Period, i.e. the last ten consecutive trading days of a year is at least \$11.50 (which condition was satisfied for the year ended December 31, 2015), holders of our Founder Preferred Shares have the right to receive a Founder Preferred Shares Annual Dividend Amount, payable in Ordinary Shares or cash, at the Company's sole option; and
- b. holders of our Founder Preferred Shares have the right to receive dividends and other distributions as may be declared from time to time by the Company's board of directors with respect to the Ordinary Shares (such dividends to be distributed among the holders of Founder Preferred Shares, as if for such purpose the Founder Preferred Shares had been converted into Ordinary Shares immediately prior to such distribution) plus an amount equal to 20% of the dividend which would be distributable on such number of Ordinary Shares equal to the Preferred Share Dividend Equivalent; and

In addition to amounts payable above, holders of Founder Preferred Shares have the right, together with the holders of Ordinary Shares, to receive such portion of all amounts available for distribution and from time to time distributed by way of dividend or otherwise at such time as determined by the directors.

#### ***Liquidation***

Holders of our Founder Preferred Shares have the right to an equal share (with the holders of Ordinary Shares on a share for share basis) in the distribution of the

surplus assets of the Company on its liquidation as are attributable to the Founder Preferred Shares.

### ***Conversion***

Founder Preferred Shares are convertible, at the option of the holders, into Ordinary Shares on a 1-for-1 basis (mandatorily upon a Change of Control or the seventh full financial year after an acquisition).

### **Transfer Agent**

The transfer agent for our Ordinary Shares and Preferred Shares is Computershare.

### **Indemnification Matters**

Our Memorandum and Articles provide that we may indemnify any person who is or was a director or who is or was, at our request, serving as a director of, or in any other capacity is or was acting for, another entity, against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings. A person may be indemnified only if he or she acted honestly and in good faith with a view to our best interests and, in the case of criminal proceedings, had no reasonable cause to believe that his or her conduct was unlawful. The decision of our board of directors as to whether the director or officer acted honestly and in good faith with a view to our best interests and as to whether the director or officer had no reasonable cause to believe that his or her conduct was unlawful, is in the absence of fraud sufficient for the purpose of indemnification, unless a question of law is involved. The termination of any proceedings by any judgment, order, settlement, conviction or the entry of no plea does not, by itself, create a presumption that a director or officer did not act honestly and in good faith and with a view to our best interests or that the director or officer had reasonable cause to believe that his or her conduct was unlawful.

In addition, we have agreed with our directors, subject to the BVI Act, to indemnify them against a number of liabilities and expenses incurred by such persons in connection with claims made by reason of their being such a director or officer.

We may purchase and maintain insurance in relation to any of our directors or officers against any liability asserted against the directors or officers and incurred by the directors or officers in that capacity, whether or not we have or would have had the power to indemnify the directors or officers against the liability as provided in our Memorandum and Articles.

### **Disclosure Requirements**

Our Memorandum and Articles provide that we may, by notice in writing, require any person to whom we know or have reasonable cause to believe to have been interested in our shares at any time during the three years preceding such notice, to confirm whether or not that is the case and to give such further information as may be required by our Memorandum and Articles. If a shareholder is in default of supplying us with the information required within the prescribed period, our directors, in their absolute discretion, may serve a direction notice on the shareholder which may direct that, in respect of the shares in which default has occurred, the shareholder shall not be entitled to attend or vote in meetings of shareholders. Additionally, if the shares in which the default has occurred represent at least 0.25% of the number of the class concerned, the direction notice may direct that dividends on such shares be retained by the Company and that no transfer of the shares shall be registered until the default is rectified.

### **Comparison of Shareholder Rights Described Herein**

We are incorporated under, and are governed by, the laws of the British Virgin Islands. The following discussion summarizes with respect to the matters described herein the material differences between the rights of holders of our Ordinary Shares and the rights of common shareholders of a typical corporation incorporated under the laws of the State of Delaware.

### ***Amendment of Governing Documents***

Under Delaware corporate law, with very limited exceptions, a vote of the shareholders of a corporation is required to amend the certificate of incorporation. In addition, Delaware corporate law provides that shareholders have the right to amend the corporation's bylaws, but the certificate of incorporation may also confer such right on the directors of the corporation.

### ***Sale of Assets***

Under Delaware corporate law, a vote of the shareholders is required to approve a sale, lease or exchange of property and assets of a corporation (including property and assets of its qualifying subsidiaries) only when all or substantially all of the corporation's property and assets are being sold other than to a qualifying subsidiary of the corporation. Under British Virgin Islands law generally, shareholder approval is required when more than 50% of a company's total assets by value are being disposed of or sold to any person if not made in the usual or regular course of the business carried out by the company. Under our Memorandum and Articles, this requirement of British Virgin Islands law has been disapplied and accordingly no shareholder approval is required in relation to such a disposal or sale.

### ***Redemption of Shares***

Under Delaware corporate law, by provision of the certificate of incorporation, any class or series of stock may be made subject to redemption by the corporation at its option, at the option of the holders of that stock or upon the happening of a specified event, provided that after such redemption shares of a class or series of stock with full voting power remain outstanding. The class or series of stock may, by provision of the certificate of incorporation, be made redeemable for cash, property or rights, as specified in the certificate of incorporation or in the resolution of the board of directors providing for the issue of the stock pursuant to the power expressly vested in the board of directors by the certificate of incorporation. Under Delaware corporate law, shares also may be repurchased with the consent of both the corporation and the holder, except that shares may not be repurchased for more than the price at which such shares may then be redeemed at the option of the corporation. Both the redemption and repurchase of shares of a Delaware corporation are subject to certain solvency limitations established by Delaware corporate law and Delaware common law. As permitted by British Virgin Islands law and our Memorandum and Articles, shares may be repurchased, redeemed or otherwise acquired by us. However, the consent of the shareholder whose shares are to be repurchased, redeemed or otherwise acquired must be obtained, except as specified in the terms of the applicable class or series of shares.

### ***Squeeze-Out Merger***

Under the Delaware General Corporation Law § 253, in a process known as a “short form” merger, a corporation that owns at least 90% of the outstanding shares of each class of voting stock of another corporation and where at least one of the corporations is a Delaware corporation and the laws of the jurisdiction of the other corporation don’t prohibit such action, may either merge the other corporation into itself or merge itself into the other corporation by executing, acknowledging and filing with the Delaware Secretary of State a certificate of ownership and merger setting forth a copy of the resolution of its board of directors authorizing such merger. If the parent corporation is a Delaware corporation that is not the surviving corporation, the merger also must be approved by a majority of the outstanding stock of the parent corporation entitled to vote thereon and the resolution must include provision for the pro rata issuance of stock of the surviving corporation to the holders of the stock of the parent corporation on surrender of any certificate therefor. If the parent corporation does not own all of the stock of the subsidiary corporation immediately prior to the merger, the minority shareholders of the subsidiary corporation party to the merger have appraisal rights as set forth in § 262 of the Delaware General Corporation Law.

Under the BVI Act, subject to any limitations in a company’s memorandum and articles of association, members holding 90% of the votes of the outstanding shares entitled to vote, and members holding 90% of the votes of the outstanding shares of each class of shares entitled to vote, may give a written instruction to the company directing the company to redeem the shares held by the remaining members. In our Memorandum and Articles, we have opted out of the BVI Act’s squeeze out provisions.

### ***Variation of Rights of Shares***

Under Delaware corporate law, a corporation may vary the rights of a class of stock with the approval of a majority of the outstanding shares entitled to vote thereon, and, in certain circumstances, including if such variation would change the rights of such class so as to affect them adversely, with the approval of a majority of the outstanding shares of such class, voting separately as a single class.

As permitted by British Virgin Islands law and our Memorandum and Articles, we may vary the rights attached to any class with the written consent of at least 50% of the holders of each class of shares affected or by a resolution passed by at least 50% of the votes cast by eligible holders of the issued shares of the affected class at a separate meeting of the holders of that class.

### ***Election of Directors***

Under Delaware corporate law generally, unless otherwise specified in the certificate of incorporation or bylaws of a corporation, directors are elected by a plurality of the votes of the shares entitled to vote on the election of directors and vacancies and newly created directorships resulting from an increase in the number of directors may be filled by a majority of the directors then in office (although less than a quorum) or by the sole remaining director. Subject to the BVI Act and pursuant to our Memorandum and Articles, directors shall be appointed at any time, and from time to time, by our directors, without the approval of shareholders, either to fill a vacancy or as an alternate or additional director. The shareholders may, by a majority vote, appoint any person as a director. In addition, for so long as an initial holder of Founder Preferred Shares holds 20% or more of the Founder Preferred Shares in issue, such holder is entitled to nominate, and the directors are required to appoint, a person as director. If such holder notifies the Company to remove any director nominated by him or her, the other directors shall remove such director, and the holder will have the right to nominate a director to fill the resulting vacancy. In the event an initial holder ceases to be a holder of Founder Preferred Shares or holds less than 20% of the Founder Preferred Shares in issue, such initial holder will no longer be entitled to nominate a person as a director, and the holders of a majority of the Founder Preferred Shares in issue will be entitled to exercise that initial holder’s former rights to appoint a director instead.

### ***Mergers***

Under Delaware corporate law, one or more constituent corporations may merge into and become part of another constituent corporation in a process known as a merger. In order to be properly adopted, the agreement of merger must be adopted by the board of directors of each constituent Delaware corporation by a resolution or unanimous consent in lieu of a meeting. In addition, the agreement of merger generally must be approved at a meeting of shareholders of each constituent Delaware corporation by a majority of the outstanding stock of such corporation entitled to vote, unless the certificate of incorporation provides for a supermajority vote.

Under the BVI Act, two or more companies may merge or consolidate in accordance with the statutory provisions. In order to merge or consolidate, the directors of each constituent company must approve a written plan of merger or consolidation, which must be authorized by a resolution of shareholders. One or more companies may also merge or consolidate with one or more companies incorporated under the laws of jurisdictions outside the British Virgin Islands if the merger or consolidation is permitted by the laws of the jurisdictions in which the companies incorporated outside the British Virgin Islands are incorporated. In respect of such a merger or consolidation, a British Virgin Islands company is required to comply with the provisions of the BVI Act, and a company incorporated outside the British Virgin Islands is required to comply with the laws of its jurisdiction of incorporation.

Shareholders not otherwise entitled to vote on the merger or consolidation may still acquire the right to vote if the plan of merger or consolidation contains any provision that, if proposed as an amendment to the memorandum and articles of association, would entitle them to vote as a class or series on the proposed amendment. In any event, all shareholders must be given a copy of the plan of merger or consolidation irrespective of whether they are entitled to vote at the meeting or consent to the written resolution to approve the plan of merger or consolidation.

### ***Cumulative Voting***

Under Delaware corporate law, cumulative voting for elections of directors is not permitted unless the company’s certificate of incorporation specifically provides for it. Cumulative voting potentially facilitates the representation of minority shareholders on a board of directors since it permits the minority shareholder to cast all the votes to which the shareholder is entitled on a single director, which increases the shareholder’s voting power with respect to electing such director. There are no prohibitions on cumulative voting under the laws of the British Virgin Islands, but our Memorandum and Articles do not provide for cumulative voting.

## EXECUTION VERSION

The taking of (a) any of the Finance Documents (including this document) or (b) any certified copy thereof or (c) any document which constitutes substitute documentation thereof including written confirmations or references (the "Stamp Duty Sensitive Documents") into Austria may cause the imposition of Austrian stamp duty. The same, inter alia, applies to (i) the sending of Stamp Duty Sensitive Documents to an Austrian addressee by fax, (ii) the sending of any e-mail communication to which an electronic scan copy (e.g., pdf or tif) of a Stamp Duty Sensitive Document is attached to an Austrian addressee and (iii) the sending of any e-mail communication carrying an electronic or digital signature which refers to a Stamp Duty Sensitive Document to an Austrian addressee. Accordingly, in particular, keep any Stamp Duty Sensitive Documents outside of Austria and avoid (A) sending Stamp Duty Sensitive Documents by fax to an Austrian addressee, (B) sending any e-mail communication to which an electronic scan copy of a Stamp Duty Sensitive Document is attached to an Austrian addressee and (C) sending any e-mail communication carrying an electronic or digital signature which refers to a Stamp Duty Sensitive Document to an Austrian addressee.

AMENDMENT AND RESTATEMENT AGREEMENT  
*RELATING TO A SENIOR FACILITIES AGREEMENT ORIGINALLY DATED 3 JULY 2014  
AS AMENDED AND RESTATED FROM TIME TO TIME, INCLUDING PURSUANT TO AN  
AMENDMENT AND RESTATEMENT AGREEMENT DATED 20 DECEMBER 2017*

Dated 15 June 2018

for  
NOMAD FOODS LIMITED  
as Listco

with  
CREDIT SUISSE AG, LONDON BRANCH  
acting as Agent

and  
CREDIT SUISSE AG, LONDON BRANCH  
acting as Security Agent

**Linklaters**

Ref: L-273409



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## THE SCHEDULES

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THIS AGREEMENT is entered into by way of deed on 15 June 2018 between:

- (1) **NOMAD FOODS LIMITED**, a public listed company incorporated in the British Virgin Islands with registered number 1818482, for itself and as Obligors' Agent under (and as defined in) the Original Facilities Agreement on behalf of each other Obligor (as defined in the Original Facilities Agreement) ("**Listco**");
- (2) **CREDIT SUISSE INTERNATIONAL** (the "**Original Facility B7 Lender**");
- (3) **CREDIT SUISSE INTERNATIONAL** and **GOLDMAN SACHS BANK USA** (together, the "**Facility B7 Mandated Lead Arrangers**" and together with the Facility B7 Bookrunners, the "**Facility B7 Arrangers**");
- (4) **CREDIT SUISSE INTERNATIONAL, DEUTSCHE BANK AG, LONDON BRANCH, GOLDMAN SACHS BANK USA** and **UBS LIMITED** as bookrunners for Facility B7 (the "**Facility B7 Bookrunners**");
- (5) **COMMERZBANK AKTIENGESELLSCHAFT** as an Original Revolving Facility Lender under (and as defined in) the Original Facilities Agreement;
- (6) **CREDIT SUISSE AG, LONDON BRANCH** as agent of the other Finance Parties under (and as defined in) the Original Facilities Agreement (the "**Agent**"); and
- (7) **CREDIT SUISSE AG, LONDON BRANCH**, as security agent and trustee for the other Secured Parties under (and as defined in) the Intercreditor Agreement (the "**Security Agent**").

IT IS AGREED as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Agreement:

**"Additional Facility Effective Time"** means the applicable time on the Effective Date which falls immediately prior to the time on which the Agent gives notice pursuant to paragraph (c) of Clause 6 (*Conditions precedent*), provided that, for the avoidance of any doubt, the Additional Facility Effective Time shall not occur to the extent that no such notice is given by the Agent pursuant to paragraph (c) of Clause 6 (*Conditions precedent*).

**"Amended Facilities Agreement"** means the Original Facilities Agreement, as amended and restated in the form set out in Schedule 2 (*Amended Facilities Agreement*).

**"Effective Date"** means the date of the notification by the Agent under paragraph (c) of Clause 6 (*Conditions precedent*).

**"Facility B7 Commitments"** means the Facility B7 Commitments of the Original Facility B7 Lender as at the Additional Facility Effective Time.

**"Long Stop Date"** means 1 September 2018.

**"Original Facilities Agreement"** means the Senior Facilities Agreement originally dated 3 July 2014 as amended and restated from time to time, including pursuant to an amendment and restatement agreement dated 20 December 2017 between, among others, Listco and the Agent.

**"Party"** means a party to this Agreement.



## **1.2 Incorporation of defined terms and interpretation**

- (a) Unless a contrary indication appears, a term defined in the Amended Facilities Agreement or (as the context requires) the Intercreditor Agreement has the same meaning in this Agreement (notwithstanding that the Effective Date may not have occurred), save that each capitalised term used in Clauses 2 (*Establishment of Facility B7 as an Additional Facility*) to 5 (*Utilisation of Facility B7*) (other than, for the avoidance of any doubt, the terms Facility B7, Facility B7 Commitment and Facility B7 Loan) shall have the meaning given to those terms in the Original Facilities Agreement or (as the context requires) the Intercreditor Agreement (unless a contrary indication appears in any such Clause).
- (b) The principles of construction set out in the Amended Facilities Agreement shall have effect as if set out in this Agreement *mutatis mutandis* (notwithstanding that the Effective Date may not have occurred).

## **1.3 Clauses**

In this Agreement any reference to a "Clause" or a "Schedule" is, unless the context otherwise requires, a reference to a Clause in or a Schedule to this Agreement.

## **1.4 Third party rights**

- (a) Unless otherwise provided in this Agreement, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Each of the Secured Parties may enforce and enjoy the benefit of any provision of this Agreement expressed to be in their favour or for their benefit (or, as the case may be, being a confirmation given in their favour or for their benefit), subject always to the terms of Clause 14 (*Miscellaneous*) and Clause 15 (*Governing law*) below.

## **1.5 Designation**

- (a) In accordance with the Original Facilities Agreement, Listco and the Agent designate this Agreement as a Finance Document and as an Additional Facility Document (each as defined in the Original Facilities Agreement).
- (b) Paragraph (a) above shall be without prejudice to the operation of the Amended Facilities Agreement, pursuant to which, this Agreement shall become, on the Effective Date, a Finance Document.

## **1.6 Effect as a Deed**

Each Party intends this document to take effect as a deed, even though certain of the Parties may only execute it under hand.

## **1.7 Parties to this Agreement**

- (a) Commerzbank has requested that it be a Party, notwithstanding that there is no requirement for it to be a Party under the terms of the Original Facilities Agreement and/or the Intercreditor Agreement.
- (b) Commerzbank is executing this Agreement on the basis that this is required by its constitution. It is acknowledged by all Parties that the fact that Commerzbank is a Party to this Agreement is entirely without prejudice to the rights and obligations of the Finance Parties under the Finance



Documents (each as defined in the Original Facilities Agreement), the Finance Parties under the Finance Documents and the Secured Parties under the Debt Documents, including the provisions of clause 41 (*Amendments and waivers*) of the Original Facilities Agreement and the Amended Facilities Agreement and clause 26 (*Consents, amendments and override*) of the Intercreditor Agreement and shall not operate as an amendment or waiver of any of the requirements thereof.

## 1.8 Payments

- (a) All payments to be made by a member of the Group under, or in connection with Clause 4 (*Facility B7 OID Fee*):
- (i) shall be paid in the currency of payment or invoice and in immediately available, freely transferable funds to such account(s) with such bank(s) as the recipient of that payment notifies to the relevant member of the Group and shall be non-refundable;
  - (ii) shall be paid without any set-off or counterclaim and without any deduction or withholding for or on account of tax (a "**Tax Deduction**") unless a Tax Deduction is required by law. If a Tax Deduction is required by law to be made, the amount of the payment due shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required; and
  - (iii) are exclusive of any value added tax or similar charge ("**VAT**"). If VAT is chargeable on any payment or amount to be reimbursed under this Agreement (including if any VAT is chargeable on services provided from legal counsel where the recipient is required to self-assess and account for VAT in their role as recipient of such services), the relevant payor shall also and at the same time pay to the recipient of the relevant payment an amount equal to the amount of the VAT.

## 2. ESTABLISHMENT OF FACILITY B7 AS AN ADDITIONAL FACILITY

- (a) The Agent and Listco acknowledge and agree that:
- (i) this Agreement shall be deemed to be, and shall take effect in accordance with its terms as, an Additional Facility Notice in respect of Facility B7 and shall be deemed to have been duly completed and delivered pursuant to clause 2.4 (*Additional Facilities*) of the Original Facilities Agreement;
  - (ii) this Agreement shall:
    - 1. satisfy the requirements of clause 2.4 (*Additional Facilities*) of the Original Facilities Agreement in so far as that clause requires each provider of Facility B7 to deliver to the Agent a duly completed Additional Facility Notice and Lender Accession Notice in respect of Facility B7; and
    - 2. be deemed to be (for the purposes of paragraph (j) of clause 2.4 (*Additional Facilities*) of the Original Facilities Agreement) the agreement of each provider of Facility B7 as to the terms applicable to Facility B7 (with such terms being the applicable terms of the Amended Facilities Agreement, the Intercreditor Agreement and the other Finance Documents (as defined in



the Amended Facilities Agreement) (notwithstanding that the Effective Date has not then occurred));

- (iii) Facility B7 shall, upon its establishment in accordance with the terms of this Agreement, be an Additional Term Facility, a US\$ Denominated Facility and a Credit Facility (and, for the avoidance of any doubt, constitute Credit Facility Lender Liabilities for the purposes of the Intercreditor Agreement).
- (b) Listco confirms that, as at the Additional Facility Effective Time, the conditions and requirements set out in:
  - (i) paragraph (d) of clause 2.4 (*Additional Facilities*) of the Original Facilities Agreement are satisfied in respect of the establishment of Facility B7 as an Additional Facility under the Original Facilities Agreement; and
  - (ii) paragraph (a)(i) of clause 7.1 (*New Debt Financing*) of the Intercreditor Agreement are satisfied in respect of the establishment of Facility B7 as an Additional Facility under the Original Facilities Agreement.
- (c) The Agent acknowledges and agrees that, as at the Additional Facility Effective Time, the conditions and requirements set out in:
  - (i) paragraph (d)(xi) of clause 2.4 (*Additional Facilities*) of the Original Facilities Agreement have been satisfied; and
  - (ii) paragraph (e) of clause 2.4 (*Additional Facilities*) of the Original Facilities Agreement are satisfied by reference to the applicable terms of the Amended Facilities Agreement.
- (d) Upon the occurrence of the Additional Facility Effective Time, Facility B7 will be established and incorporated into the Original Facilities Agreement, with the total Facility B7 Commitments assumed by the Original Facility B7 Lender.

### **3. ACCESSIONS**

#### **3.1 Accession of the Original Facility B7 Lender**

- (a) The Agent and Listco acknowledge and agree that this Agreement shall, with respect to the Original Facility B7 Lender, be deemed to be a Lender Accession Notice for the purposes of the Original Facilities Agreement and a Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement.
- (b) Upon the occurrence of the Additional Facility Effective Time, the Original Facility B7 Lender agrees that it shall (to the extent that it is not already a party in that capacity) become party to the Original Facilities Agreement as a Lender and shall become party to the Intercreditor Agreement as a Credit Facility Lender, a Credit Facility Finance Party, a Senior Secured Facilities Lender and a Senior Secured Creditor and undertakes to perform all the obligations expressed in:
  - (i) the Original Facilities Agreement to be assumed by a Lender and agrees that it shall be bound by all the provisions of the Original Facilities Agreement as if it had been an original party to the Original Facilities Agreement as a Lender; and
  - (ii) the Intercreditor Agreement to be assumed by a Credit Facility Lender, a Credit Facility Finance Party, a Senior Secured Facilities Lender and a Senior Secured Creditor and



agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement as a Credit Facility Lender, a Credit Facility Finance Party, a Senior Secured Facilities Lender and a Senior Secured Creditor.

- (c) By signing this Agreement, upon the occurrence of the Additional Facility Effective Time:
- (i) the Original Facility B7 Lender agrees to become a Lender under Facility B7 and to be bound by the terms applicable in respect of Facility B7 as contemplated in this Agreement;
  - (ii) the Original Facility B7 Lender confirms that it intends to incur liabilities under the Finance Documents in respect of Facility B7 with a Facility B7 Commitment in the amount set out in part II of schedule 1 (*The Parties*) of the Amended Facilities Agreement (and notwithstanding that the Effective Date shall not have occurred at such time) (being, for the avoidance of any doubt, as at the Additional Facility Effective Time, a principal amount equal to US\$300,000,000);
  - (iii) the Original Facility B7 Lender acknowledges and agrees to each of the matters set out in Clause 2 (*Establishment of Facility B7 as an Additional Facility*), and in clause 2.4 (*Additional Facilities*) and clause 29.10 (*Lender Accession Notice*) of the Original Facilities Agreement;
  - (iv) the Original Facility B7 Lender confirms that it is not a member of the Group or a Listco Affiliate; and
  - (v) the Original Facility B7 Lender confirms that it is a Qualifying Lender.
- (d) Upon the occurrence of the Additional Facility Effective Time, the Original Facility B7 Lender shall assume the same obligations to and acquire the same rights against each other party under the Original Facilities Agreement as a Lender and under the Intercreditor Agreement as a Credit Facility Lender, a Credit Facility Finance Party, a Senior Secured Facilities Lender and a Senior Secured Creditor as it would have assumed or acquired under each such agreement had it been an original party to those agreements in those capacities.
- (e) The administrative details of the Original Facility B7 Lender are as provided to the Agent prior to the Additional Facility Effective Time.

### **3.2 Accession of the Facility B7 Arrangers**

- (a) By signing this Agreement, upon the occurrence of the Effective Date, each Facility B7 Arranger:
- (i) confirms that it intends to be a party to the Amended Facilities Agreement as, and agrees to become, an Arranger and a Finance Party under the Amended Facilities Agreement and to be bound by the terms of the Amended Facilities Agreement as an Arranger and a Finance Party;
  - (ii) undertakes to perform all the obligations expressed in the Amended Facilities Agreement to be assumed by an Arranger and a Finance Party and agrees that it shall be bound by all the provisions of the Amended Facilities Agreement as if it had been an original party to the Amended Facilities Agreement as an Arranger and a Finance Party;



- (iii) confirms that it intends to be a party to the Intercreditor Agreement as, and agrees to become, a Credit Facility Finance Party, an Arranger and a Senior Secured Creditor as if it had been an original party to the Intercreditor Agreement as a Credit Facility Finance Party, an Arranger and a Senior Secured Creditor;
  - (iv) undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a Credit Facility Finance Party, an Arranger and a Senior Secured Creditor and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement as a Credit Facility Finance Party, an Arranger and a Senior Secured Creditor; and
  - (v) shall, for the avoidance of any doubt, have conferred upon it each of the roles and titles (but only those roles and titles) which are specified alongside its name in the list of parties in the Amended Facilities Agreement.
- (b) Upon the occurrence of the Effective Date, each Facility B7 Arranger shall assume the same obligations to and acquire the same rights against each other party under the Amended Facilities Agreement as an Arranger and a Finance Party and under the Intercreditor Agreement as a Credit Facility Finance Party, an Arranger and a Senior Secured Creditor as it would have assumed or acquired under each such agreement had it been an original party to those agreements in those capacities.
- (c) Each Facility B7 Arranger confirms that its address for notices for the purposes of clause 37 (*Notices*) of the Amended Facilities Agreement and clause 24 (*Notices*) of the Intercreditor Agreement is that as notified to the Agent prior to the Effective Date.
- (d) Each Party agrees that none of the Facility B7 Arrangers (save to the extent that the Facility B7 Arranger agrees in writing to the contrary in a Mandate Document) shall have responsibility or liability (whether direct or indirect, in contract or tort or otherwise) for or in connection with this Agreement, the Amended Facilities Agreement and/or the Intercreditor Agreement (or any transaction or matter referred to in any such agreement or document), in each case, whether prior to, or after, its accession as an Arranger pursuant to this Clause 3.
- (e) Notwithstanding any term to the contrary in this Clause 3 (if any), each Facility B7 Arranger shall only assume obligations under the Amended Facilities Agreement and the Intercreditor Agreement which apply to an "Arranger" (or, as applicable, any other capacity therein which includes acting in the capacity as Arranger) (if any) on and from the Effective Date and shall not, for the avoidance of any doubt, have any responsibility or liability for any obligations (whether under the Amended Facilities Agreement, the Intercreditor Agreement or the Original Facilities Agreement) which apply or applied to an "Arranger" (or, as applicable, any other capacity therein which includes acting in the capacity as Arranger) prior to such date (nor any responsibility or liability for the non-performance (or otherwise) of any such obligations).
- (f) The Agent and Listco acknowledge and agree that this Agreement shall, with respect to each Facility B7 Arranger, be deemed to be a Creditor/Agent Accession Undertaking for the purposes of the Intercreditor Agreement.



#### **4. FACILITY B7 OID FEE**

On the first Utilisation Date in respect of Facility B7, Listco shall (or shall procure that another member of the Group shall) pay to the Original Facility B7 Lender an original issue discount fee in US\$ in an amount equal to 0.25 per cent. of the aggregate principal amount of the Facility B7 Commitments of the Original Facility B7 Lender as at the Additional Facility Effective Time.

#### **5. UTILISATION OF FACILITY B7**

- (a) The Original Facility B7 Lender and the Agent agree that, notwithstanding that Facility B7 shall only be established upon the occurrence of the Additional Facility Effective Time and notwithstanding the requirements of clause 5.1 (*Delivery of a Utilisation Request*) and clause 5.2 (*Completion of a Utilisation Request for Loans*) of the Original Facilities Agreement, the Agent may accept a Utilisation Request in respect of Facility B7 at such time and in such form as the Agent may agree with Listco or, as the case may be, another member of the Group (acting reasonably).
- (b) For the avoidance of any doubt, pursuant to paragraph (j) of clause 2.4 (*Additional Facilities*) of the Original Facilities Agreement, the Original Facility B7 Lender and the Obligors' Agent may, by agreement after the date of this Agreement, waive any of the applicable requirements set out in clause 4 (*Conditions of Utilisation*) of the Original Facilities Agreement to utilisation of Facility B7.

#### **6. CONDITIONS PRECEDENT**

- (a) The Effective Date shall only occur if the requirements of paragraphs (b) and (c) below have then been satisfied.
- (b) Listco shall deliver, or shall procure are delivered, to the Agent and the Security Agent the conditions precedent documents listed in Schedule 1 (*Conditions Precedent*) in form and substance satisfactory to the Agent and the Security Agent (each acting reasonably).
- (c) The Agent and the Security Agent shall each notify Listco and the Arrangers upon the date that it has received all of the documents and other evidence listed in Schedule 1 (*Conditions Precedent*).
- (d) The Agent and the Security Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification and neither the Agent nor Security Agent shall be liable for any damages, costs or losses whatsoever in connection with this Agreement (unless directly caused by its gross negligence or wilful misconduct).

#### **7. AMENDMENT AND RESTATEMENT**

On and with effect from the Effective Date, the Original Facilities Agreement shall be amended and restated in the form set out in Schedule 2 (*Amended Facilities Agreement*).

#### **8. CONFIRMATION**

- (a) On and from the Effective Date, the provisions of the Original Facilities Agreement, the Intercreditor Agreement and the other Finance Documents (as defined in the Original Facilities Agreement) (including, without limitation, the guarantee and indemnity of each Obligor) shall, save as amended by this Agreement, continue in full force and effect.
- (b) Immediately prior to the Effective Date (but after the Additional Facility Effective Time), Listco, for itself and for and on behalf of each Obligor, acknowledges and confirms its acceptance of this



Agreement and (on and from the Effective Date) the Amended Facilities Agreement and agrees that it and each such Obligor (as defined in the Original Facilities Agreement) is bound, with effect from the Effective Date, as an Obligor by the terms of the Amended Facilities Agreement, and confirms, for the benefit of the Finance Parties, that the guarantees and indemnities set out in clause 23 (*Guarantee and indemnity*) of the Amended Facilities Agreement shall apply, on and from the Effective Date, in respect of all of the obligations of each Obligor under the Finance Documents and extend to all new obligations of any such Obligor under any such Finance Document (including any arising from this Agreement and/or each amendment and restatement (and any other transactions consequent thereon) referred to in Clause 7 (*Amendment and Restatement*)).

- (c) Listco hereby confirms that each Obligor has irrevocably authorised it (and, to the extent legally possible, has relieved it from the restrictions pursuant to section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and/or any similar restrictions applicable pursuant to any other applicable law) to sign on its behalf this Agreement and all other documents required to implement the transactions, confirmations, accessions, redesignations, utilisations (or other borrowings) and/or amendments and restatements effected or to be effected pursuant to this Agreement (including, without limitation, each amendment and restatement pursuant to Clause 7 (*Amendment and Restatement*)).
- (d) For the avoidance of any doubt, no waiver is given by entering into this Agreement or the transactions contemplated by this Agreement.

#### **9. AGENT'S BOOKS AND RECORDS, WAIVER OF TRANSFER FEE**

- (a) Upon the occurrence of each of the Additional Facility Effective Time and the Effective Date, the Agent shall (in each case) update the register of Lenders (as defined in the Original Facilities Agreement) to reflect the establishment of Facility B7 (and the Commitments of the Lenders (as such term is defined in the Original Facilities Agreement), the utilisation of Facility B7 (and the relevant participations of the Lenders (as defined in the Original Facilities Agreement) thereunder), each accession and each resignation referred to in this Agreement and (to the extent applicable) each other transaction contemplated in this Agreement.
- (b) The Agent acknowledges and agrees that no fee shall be payable to it pursuant to clause 29.3 (*Assignment or transfer fee*) of the Original Facilities Agreement and/or clause 29.3 (*Assignment or transfer fee*) of the Amended Facilities Agreement in connection with primary syndication of Facility B7 by the Facility B7 Arrangers and/or the Original Facility B7 Lender.

#### **10. FURTHER ASSURANCE**

Listco shall ensure that each member of the Group shall, at the request of the Agent (acting reasonably) and at Listco's own expense, do all such acts and things which are necessary or desirable to give effect to the transactions, confirmations, accessions, redesignations, utilisations (or other borrowings) and/or amendments and restatements effected or to be effected pursuant to this Agreement (including, without limitation, each amendment and restatement pursuant to Clause 7 (*Amendment and Restatement*)).



## 11. INDEMNITY

Listco shall promptly indemnify each Party and each Finance Party for any costs, expense, loss or liability incurred in connection with this Agreement and each other agreement referred to in this Agreement and/or as a result of any payments to be made by (or on behalf of or at the direction of) Listco or any other member of the Group pursuant to this Agreement or any other agreement referred to in this Agreement on or prior to the Effective Date (including as a result of any such payment not being made in whole or in part by the relevant member of the Group on the relevant due date for payment).

## 12. REPRESENTATIONS

Listco, on behalf of itself and each Obligor, makes each of the representations and warranties contained in clause 24 (*Representations*) of the Amended Facilities Agreement (by reference to the facts and circumstances then existing) on:

- (a) the date of this Agreement; and
- (b) the Effective Date,

but as if:

- (i) references to "this Agreement", "Transaction Document", "Transaction Documents" and "Finance Document" in those representations and warranties (or any similar terms) were instead, on the date of this Agreement, references to this Agreement and to the Original Facilities Agreement and, on the Effective Date, to this Agreement and to the Amended Facilities Agreement;
- (ii) references to the "Information Memorandum" was instead a reference to the lender presentation dated 5 June 2018 prepared in connection with, amongst other things, Facility B7; and
- (iii) in the case of paragraph (a) above, the Effective Date had occurred on the date of this Agreement.

## 13. TERMINATION

If the Effective Date has not occurred on or prior to the Long Stop Date, this Agreement shall terminate and shall be of no further force or effect and the provisions of the Original Facilities Agreement and the other Finance Documents (including the guarantee and indemnity of each Guarantor (as defined in the Original Facilities Agreement)) shall continue in full force and effect as if this Agreement had not been entered into.

## 14. MISCELLANEOUS

- (a) The provisions of clause 22.1 (*Transaction Expenses*), clause 37 (*Notices*), clause 39 (*Partial invalidity*) and clause 45 (*Enforcement*) of the Original Facilities Agreement shall be incorporated into this Agreement as if set out in full in this Agreement, *mutatis mutandis*, and as if references in those clauses to "this Agreement" or "the Finance Documents" (or any similar terms) are references to this Agreement.



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

**15. GOVERNING LAW**

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

**This Agreement has been entered into on the date stated at the beginning of this Agreement and is executed as a deed by Listco, on behalf of itself and each Obligor, and is intended to be and is delivered by it as a deed on the date specified above.**



**SCHEDULE 1**  
**CONDITIONS PRECEDENT**

**1. Obligors**

- 1.1 A copy of the constitutional documents of Listco.
- 1.2 A copy of a resolution of the board of directors/managers of Listco:
- (a) approving the terms of and the transactions contemplated by this Agreement (and the Amended Facilities Agreement) and the Finance Documents to which each it is a party and resolving that it execute, deliver and perform this Agreement (and the Amended Facilities Agreement) and the Finance Documents;
  - (b) authorising a specified person or persons to execute this Agreement (and the Amended Facilities Agreement) and the Finance Documents to which it is a party on its behalf and any other documents and notices to be signed by or on behalf of it under or in connection with this Agreement (and the Amended Facilities Agreement) and the Finance Documents; and
  - (c) confirming, on behalf of itself and each of the Obligors, each of the matters specified in Clause 8 (*Confirmation*) of this Agreement, including that the guarantee issued under and in accordance with clause 23 (*Guarantee and indemnity*) of the Original Facilities Agreement will be legal, valid and binding and in full force and effect notwithstanding the proposed amendments to the Original Facilities Agreement in the form set out in Schedule 2 (*Amended Facilities Agreement*).
- 1.3 A specimen of the signature of each person authorised by the resolutions referred to above in relation to this Agreement.
- 1.4 In relation to Listco:
- (a) a certificate from its registered agent, in form and substance satisfactory to the Security Agent;
  - (b) a certified copy of the register of charges maintained by it under the BVI Business Companies Act 2004, or, alternatively, written confirmation that there is no Security over any of its assets or undertaking; and
  - (c) (if applicable) a copy of any power of attorney under which any Finance Document is executed on behalf of Listco; and
  - (d) a certificate of a Director (of Listco) certifying that:
    - (i) each copy document relating to it are correct, complete and in full force and effect and have not been amended or superseded;
    - (ii) there has been no breach of guaranteeing, borrowing or similar restrictions by it or any Obligor as at the date of such certificate; and



- (iii) borrowing or guaranteeing or securing, as appropriate, the Total Commitments would not cause any borrowing, guaranteeing, securing or similar limit binding on it or any other Obligor to be exceeded.

## **2. Legal opinions**

- 2.1 A legal opinion as to enforceability under English law.
- 2.2 A legal opinion as to capacity under the laws of the British Virgin Islands.

## **3. Other documents and evidence**

Evidence that all fees, costs and expenses due to any of the Finance Parties have been paid or will be paid on or prior to the Effective Date.



**SCHEDULE 2**  
**AMENDED FACILITIES AGREEMENT**



*The taking of (a) any of the Finance Documents (including this document) or (b) any certified copy thereof or (c) any document which constitutes substitute documentation thereof including written confirmations or references (the "Stamp Duty Sensitive Documents") into Austria may cause the imposition of Austrian stamp duty. The same, inter alia, applies to (i) the sending of Stamp Duty Sensitive Documents to an Austrian addressee by fax, (ii) the sending of any e-mail communication to which an electronic scan copy (e.g., pdf or tif) of a Stamp Duty Sensitive Document is attached to an Austrian addressee and (iii) the sending of any e-mail communication carrying an electronic or digital signature which refers to a Stamp Duty Sensitive Document to an Austrian addressee. Accordingly, in particular, keep any Stamp Duty Sensitive Documents outside of Austria and avoid (A) sending Stamp Duty Sensitive Documents by fax to an Austrian addressee, (B) sending any e-mail communication to which an electronic scan copy of a Stamp Duty Sensitive Document is attached to an Austrian addressee and (C) sending any e-mail communication carrying an electronic or digital signature which refers to a Stamp Duty Sensitive Document to an Austrian addressee.*

## SENIOR FACILITIES AGREEMENT

originally dated 3 July 2014

as amended and restated from time to time including pursuant to the 2018 Amendment and

Restatement Agreement

for

*NOMAD FOODS LIMITED*

as Listco

with

*CREDIT SUISSE INTERNATIONAL*

as left lead bank in respect of Facility B7

with

*CREDIT SUISSE INTERNATIONAL and GOLDMAN SACHS BANK USA* as mandated lead

arrangers and physical bookrunners in respect of Facility B7

with

*CREDIT SUISSE INTERNATIONAL, DEUTSCHE BANK AG, LONDON BRANCH,  
GOLDMAN SACHS BANK USA and UBS LIMITED* as bookrunners in respect of Facility B7

with

*CREDIT SUISSE AG, LONDON BRANCH*

acting as Agent

and

*CREDIT SUISSE AG, LONDON BRANCH*

acting as Security Agent

# Linklaters

Ref: L-273409



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**THIS AGREEMENT** is dated 3 July 2014 as amended and restated from time to time, including on the 2018 Effective Date pursuant to the 2018 Amendment and Restatement Agreement, and made between:

- (1) **NOMAD FOODS LIMITED**, a public listed company incorporated in the British Virgin Islands with registered number 1818482 ("**Listco**");
- (2) **NOMAD FOODS EUROPE MIDCO LIMITED**, a company incorporated in England and Wales with registered number 5879252 ("**Midco**");
- (3) **NOMAD FOODS LUX S.À R.L.**, a private limited liability company (*société à responsabilité limitée*), registered with the Luxembourg Register of Commerce and Companies with registered address at 19 rue de Bitbourg, Luxembourg, Grand Duchy of Luxembourg ("**Luxco**");
- (4) **NOMAD FOODS US LLC**, a single member limited liability company organised in Delaware, the US for the sole purpose of acting as co-borrower in respect of Facility B4, Facility B6 and Facility B7 (or any Additional Facility denominated in US\$) ("**US Co-Borrower**");
- (5) **THE ENTITIES** listed in Part I of Schedule 1 (*The Parties*) as borrowers (the "**Original Borrowers**");
- (6) **THE ENTITIES** listed in Part I of Schedule 1 (*The Parties*) as guarantors (the "**Original Guarantors**");
- (7) **CREDIT SUISSE INTERNATIONAL**, as left lead bank in respect of Facility B7 (the "**Facility B7 Left Lead Bank**");
- (8) **CREDIT SUISSE INTERNATIONAL**, as left lead bank in respect of each of Facility B3 and Facility B5 and **GOLDMAN SACHS BANK USA**, as left lead bank in respect of each of Facility B4 and Facility B6 (together with the Facility B7 Left Lead Bank, the "**Left Lead Banks**");
- (9) **CREDIT SUISSE INTERNATIONAL** and **GOLDMAN SACHS BANK USA**, as physical bookrunners of Facility B7 (the "**Facility B7 Physical Bookrunners**") and **CREDIT SUISSE INTERNATIONAL** and **DEUTSCHE BANK AG, LONDON BRANCH**, as physical bookrunners of each of Facility B3 and Facility B5 (together, and together with the Facility B7 Physical Bookrunners, the "**Physical Bookrunners**");
- (10) **GOLDMAN SACHS BANK USA** and **UBS LIMITED**, as global co-ordinators of each of Facility B4 and Facility B6 (the "**Global Co-ordinators**");
- (11) **CREDIT SUISSE INTERNATIONAL, DEUTSCHE BANK AG, LONDON BRANCH, GOLDMAN SACHS BANK USA** and **UBS LIMITED**, as mandated lead arrangers and bookrunners for Facility B3, Facility B4, Facility B5 and Facility B6 and **CREDIT SUISSE INTERNATIONAL** and **GOLDMAN SACHS BANK USA** as mandated lead arrangers for Facility B7 and **CREDIT SUISSE INTERNATIONAL, DEUTSCHE BANK AG, LONDON BRANCH, GOLDMAN SACHS BANK USA** and **UBS LIMITED** as bookrunners for Facility B7 (in each case, whether acting individually or together, and together with the Left Lead Banks, the Physical Bookrunners and the Global Co-ordinators, the "**Arrangers**");
- (12) **THE FINANCIAL INSTITUTIONS** referred to in Part II of Schedule 1 (*The Parties*) (the "**Original Lenders**");
- (13) **CREDIT SUISSE AG, LONDON BRANCH**, as agent of the other Finance Parties (the "**Agent**"); and
- (14) **CREDIT SUISSE AG, LONDON BRANCH**, as security agent for the Secured Parties (the "**Security Agent**").



IT IS AGREED as follows:

## SECTION 1 INTERPRETATION

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Agreement:

**"2018 Additional Facility Effective Time"** has the meaning given to the term "Additional Facility Effective Time" in the 2018 Amendment and Restatement Agreement.

**"2018 Amendment and Restatement Agreement"** means the amendment and restatement agreement, in relation to this Agreement, dated 15 June 2018 between, among others, Listco and the Agent.

**"2018 Effective Date"** has the meaning given to the term "Effective Date" in the 2018 Amendment and Restatement Agreement.

**"Acceptable Bank"** means:

- (a) a Lender and, to the extent not a Lender, the list of banks with whom the Group has certain banking arrangements as at the Closing Date as agreed between Listco and the Arrangers prior to the Closing Date;
- (b) any bank or financial institution which has a rating for its long-term debt obligations of BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited or a comparable rating from an internationally recognised credit rating agency; or
- (c) any other bank or financial institution approved by the Agent (acting reasonably).

**"Accession Letter"** means a document substantially in the form set out in Schedule 5 (*Form of Accession Letter*) or any other form agreed by the Agent and Listco.

**"Accounting Principles"** means generally accepted accounting principles in the jurisdiction of incorporation of the relevant member of the Group or International Accounting Standards.

**"Acquired Debt"** has the meaning given to it in paragraph (e) of the definition of Permitted Financial Indebtedness.

**"Acquired Group"** means, in relation to Permitted Acquisition under paragraph (d) of the definition of 'Permitted Acquisition', the entity (and its Subsidiaries) or business or undertaking (as the case may be) acquired by the Group pursuant to such Permitted Acquisition.

**"Acquisition Costs"** means all non-periodic fees, costs and expenses, stamp, registration and other Taxes incurred or required to be paid by any member of the Group in connection with any Permitted Acquisition or the Transaction Documents.

**"Additional Borrower"** means a company which becomes a Borrower in accordance with Clause 31 (*Changes to the Obligors*).



**"Additional Facility"** has the meaning given to it in Clause 2.4 (*Additional Facilities*).

**"Additional Facility Commencement Date"** means, in respect of an Additional Facility, the date specified as the "Commencement Date" in the Additional Facility Notice relating to that Additional Facility.

**"Additional Facility Commitment"** means, in respect of an Additional Facility Lender and an Additional Facility, the Base Currency Amount specified as its Lender Commitment in the Additional Facility Notice delivered by that Additional Facility Lender, to the extent not cancelled, reduced or transferred by such Additional Facility Lender under this Agreement.

**"Additional Facility Documents"** means, in relation to any Additional Facility, the Additional Facility Debt Instrument, any fee letter entered into, under or in connection with the Additional Facility and any other document or instrument relating to that Additional Facility and designated as such by Listco and the relevant Additional Facility Lender.

**"Additional Facility Debt Instrument"** means, in relation to any Additional Facility, the indenture, facility agreement, or other equivalent document by which that Additional Facility is issued or, as the case may be, made available.

**"Additional Facility Lender"** has the meaning given to it in Clause 2.4 (*Additional Facilities*).

**"Additional Facility Loan"** means an Additional Facility Revolving Loan and/or an Additional Facility Term Loan.

**"Additional Facility Notice"** means a notice substantially in the form set out in Schedule 14 (*Form of Additional Facility Notice*) or any other form agreed by the Agent and Listco.

**"Additional Facility Revolving Loan"** means loans made or to be made under an Additional Revolving Facility or the principal amount outstanding for the time being of those loans under an Additional Revolving Facility.

**"Additional Facility Term Loan"** means loans made or to be made under an Additional Term Facility or the principal amount outstanding for the time being of those loans under an Additional Term Facility.

**"Additional Guarantor"** means a company which becomes a Guarantor in accordance with Clause 31 (*Changes to the Obligors*).

**"Additional Obligor"** means an Additional Borrower or an Additional Guarantor.

**"Additional Revolving Facility"** means any revolving facility established by Listco as an Additional Facility under Clause 2.4 (*Additional Facilities*).

**"Additional Term Facility"** means any term facility established by Listco as an Additional Facility under Clause 2.4 (*Additional Facilities*).

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

**"Agent's Spot Rate of Exchange"** means the Agent's spot rate of exchange for the purchase of the relevant currency with the Base Currency in the London foreign exchange market at or about 11:00 a.m. on a particular day.



**"Ancillary Commencement Date"** means, in relation to an Ancillary Facility, the date on which that Ancillary Facility is first made available, which date shall (unless a contrary indication appears in the April 2017 Amendment and Restatement Agreement) be a Business Day within the Availability Period for the applicable Revolving Facility.

**"Ancillary Commitment"** means, in relation to an Ancillary Lender and an Ancillary Facility, the maximum Base Currency Amount which that Ancillary Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under an Ancillary Facility and which has been authorised as such under Clause 9 (*Ancillary Facilities*), to the extent that amount is not cancelled or reduced under this Agreement or the Ancillary Documents relating to that Ancillary Facility.

**"Ancillary Document"** means each document relating to or evidencing the terms of an Ancillary Facility.

**"Ancillary Facility"** means any ancillary facility made available by an Ancillary Lender in accordance with Clause 9 (*Ancillary Facilities*).

**"Ancillary Lender"** means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with Clause 9 (*Ancillary Facilities*).

**"Ancillary Outstandings"** means, at any time, in relation to an Ancillary Lender and an Ancillary Facility, the aggregate of the equivalents (as calculated by that Ancillary Lender) in the Base Currency of the following amounts outstanding under that Ancillary Facility then in force:

- (a) the principal amount under each overdraft facility and on demand short-term loan facility (net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available that Ancillary Facility to the extent that such credit balance is freely available to be set off by that Ancillary Lender against liabilities owed to it by that Borrower under that Ancillary Facility) (ignoring, for this purpose, where agreed by the Ancillary Lender, any liability in respect of BACS facilities);
- (b) the face amount of each guarantee, bond and letter of credit under that Ancillary Facility (to the extent not repaid or prepaid); and
- (c) the amount fairly representing the aggregate exposure (excluding interest and similar charges) of that Ancillary Lender under each other type of accommodation provided under that Ancillary Facility,

in each case, as determined by such Ancillary Lender in accordance with the relevant Ancillary Document or normal banking practice.

**"Anti-Corruption Laws"** means the US Foreign Corrupt Practices Act 1977, the UK Bribery Act 2010, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and any other applicable anti-bribery or anti-corruption law or regulation.

**"Anti-Money Laundering Laws"** means all applicable financial record keeping and reporting requirements and anti-money laundering statutes in all jurisdictions in which the member of the Group conducts its business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency.



**"April 2017 Amendment and Restatement Agreement"** means the amendment and restatement agreement, in relation to this Agreement and the Intercreditor Agreement, dated 28 April 2017 between, among others, Listco, Midco, Luxco, the US Co-Borrower and the Agent.

**"April 2017 Effective Date"** has the meaning given to the term "Effective Date" in the April 2017 Amendment and Restatement Agreement.

**"April 2017 Funds Flow Statement"** has the meaning given to the term "Funds Flow Statement" in the April 2017 Amendment and Restatement Agreement.

**"Auditors"** means any firm of independent accountants appointed by Listco as its auditors from time to time.

**"Austrian Capital Maintenance Rules"** has the meaning given to it in Clause 23.12 (*Limitations on obligations of Austrian Guarantors*).

**"Austrian Guarantor"** has the meaning given to it in Clause 23.5 (*Guarantor intent*).

**"Austrian Obligor"** means an Obligor incorporated in the Republic of Austria.

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

**"Availability Period"** means:

- (a) in relation to Facility B3 and Facility B4, the period from (and including) the December 2017 Additional Facility Effective Time to (and including) 11:59 pm on the December 2017 Effective Date;
- (b) in relation to Facility B5, the period from (and including) the December 2017 Additional Facility Effective Time to (and including) the earlier of:
  - (i) the first Utilisation Date in respect of Facility B5; and
  - (ii) the date falling 60 days after the December 2017 Effective Date;
- (c) in relation to Facility B6, the period from (and including) the December 2017 Additional Facility Effective Time to (and including) the earlier of:
  - (i) the first Utilisation Date in respect of Facility B6; and
  - (ii) the date falling 60 days after the December 2017 Effective Date;
- (d) in relation to Facility B7, the period from (and including) the 2018 Additional Facility Effective Time to (and including) the earlier of:
  - (i) the first Utilisation Date in respect of Facility B7; and
  - (ii) 1 September 2018;
- (e) in relation to the Original Revolving Facility, the period from (and including) the April 2017 Effective Date to (and including) the date falling one Month prior to the Termination Date applicable to the Original Revolving Facility; and
- (f) in relation to any Additional Facility, the period specified in the Additional Facility Notice relating to that Additional Facility.

**"Available Amount"** has the meaning ascribed to such term in Clause 26.4 (*Baskets*).



**"Available Commitment"** means, in relation to a Facility, a Lender's Commitment under that Facility minus (subject to Clause 9.7 (*Affiliates of Lenders as Ancillary Lenders*)) and as set out below):

- (a) the amount (or, in the case of a Revolving Facility only, the Base Currency Amount) of its participation in any outstanding Utilisations under that Facility and, in the case of a Revolving Facility only, the Base Currency Amount of the aggregate of its Ancillary Commitments; and
- (b) in relation to any proposed Utilisation amount (or, in the case of a Revolving Facility only, the Base Currency Amount), the amount of its participation in any other Utilisations that are due to be made under that Facility on or before the proposed Utilisation Date and, in the case of a Revolving Facility only, the Base Currency Amount of its Ancillary Commitment in relation to any new Ancillary Facility that is due to be made available on or before the proposed Utilisation Date.

For the purposes of calculating a Lender's Available Commitment in relation to any proposed Utilisation under a Revolving Facility only, the following amounts shall not be deducted from a Lender's Commitment under that Facility:

- (i) that Lender's participation in any Revolving Facility Utilisations that are due to be repaid or prepaid on or before the proposed Utilisation Date; and
- (ii) that Lender's (or its Affiliate's) Ancillary Commitments to the extent that they are due to be reduced or cancelled on or before the proposed Utilisation Date.

**"Available Facility"** means, in relation to a Facility, the aggregate for the time being of each Lender's Available Commitment in respect of that Facility.

**"Base Currency"** means:

- (a) for Facility B3, Facility B5 and the Original Revolving Facility, euro;
- (b) for Facility B4, Facility B6 and Facility B7, US Dollars; and
- (c) in relation to any Additional Facility, such currency as is agreed between Listco and the applicable Additional Facility Lenders.

**"Base Currency Amount"** means:

- (a) in relation to a Utilisation, the amount specified in the Utilisation Request delivered by a Borrower for that Utilisation (or, in the case of a Utilisation under a Revolving Facility, if the amount requested is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business Days before the Utilisation Date or, if later, on the date the Agent receives the Utilisation Request in accordance with the terms of this Agreement) and, in the case of a Letter of Credit, as adjusted under Clause 6.7 (*Revaluation of Letters of Credit*) at annual intervals; and
- (b) in relation to an Ancillary Commitment, the amount specified as such in the notice delivered to the Agent by Listco pursuant to Clause 9.2 (*Availability*) (or, if the amount specified is not denominated in the Base Currency, that amount converted into the Base Currency at the Agent's Spot Rate of Exchange on the date which is three Business



Days before the Ancillary Commencement Date for that Ancillary Facility or, if later, the date the Agent receives the notice of the Ancillary Commitment in accordance with the terms of this Agreement),

as adjusted to reflect any repayment, prepayment, consolidation or division of a Utilisation, or (as the case may be) cancellation or reduction of an Ancillary Facility.

**"Belgian Additional Obligor"** means an Additional Obligor incorporated in Belgium.

**"Belgian Companies Code"** means the Belgian Companies Code of 7 May 1999, as amended from time to time.

**"Belgian Obligor"** means an Obligor incorporated in Belgium.

**"Bidco"** means Nomad Foods Europe Limited, a company incorporated in England and Wales with registered number 5879466, which is a wholly-owned subsidiary of Midco.

**"Bondco"** means Nomad Foods Bondco plc, a company incorporated in England and Wales with registered number 09094345, which is a wholly-owned subsidiary of Midco.

**"Borrower"** means a Term Facility Borrower or a Revolving Facility Borrower.

**"Borrowings"** has the meaning given to that term in Clause 26.1 (*Financial definitions*).

**"Break Costs"** means the amount (if any) by which:

- (a) the interest (but, for the avoidance of doubt, excluding any Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period,

exceeds:

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in London and Tortola (British Virgin Islands) and:

- (a) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency; or
- (b) (in relation to any date for payment or purchase of euro) any TARGET Day.

**"Capital Expenditure"** has the meaning given to that term in Clause 26.1 (*Financial definitions*).

**"Cash"** means cash in hand (or in transit or in tills or payments made by cheques or debit cards or credit cards which are yet to be received in cleared funds) and credit balances or amounts on deposit with an Acceptable Bank which are freely transferable and freely convertible and accessible by a member of the Group within 90 days or held in a blocked account and not subject to any Security (other than one arising under the Transaction Security Documents).

**"Cash Equivalent Investments"** means, at any time:



- (a) certificates of deposit maturing within one year of the relevant date of calculation and issued by an Acceptable Bank;
- (b) any investment in marketable debt obligations issued or guaranteed by the government of the United States, the United Kingdom, any member state of the European Economic Area or any Participating Member State or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year of the relevant date of calculation and not convertible or exchangeable into any other security;
- (c) debt securities maturing within one year of the relevant date of calculation which are not convertible or exchangeable into any other security, are rated either BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited (or, if no rating is available in respect of the debt securities, the issue of which has, in respect of its long-term debt obligations, an equivalent rating);
- (d) open market commercial paper not convertible or exchangeable into any other security:
  - (i) for which a recognised trading market exists;
  - (ii) issued by an issuer incorporated in the United States, the United Kingdom, any member state of the European Economic Area or any Participating Member State;
  - (iii) which matures within one year of the relevant date of calculation; and
  - (iv) which has a credit rating of either BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- (e) bills of exchange issued in the United States, the United Kingdom, any member state of the European Economic Area or any Participating Member State eligible for rediscount at the relevant central bank and accepted by an Acceptable Bank (or any dematerialised equivalent);
- (f) any investment accessible within 90 days in money market funds which has a credit rating of either BBB- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody's Investors Service Limited and which invests substantially all its assets in securities of the types described in paragraphs (a) to (e) above; or
- (g) any other debt security approved by the Majority Lenders,

in each case, to which any member of the Group is beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security (other than one arising under the Transaction Security Documents).

**"Cashflow"** has the meaning given to that term in Clause 26.1 (*Financial definitions*).

**"Change of Control"** means:

- (a) any person or persons acting in concert gain control directly or indirectly of more than 50 per cent. of the voting shares of Listco (where **"acting in concert"** means a group of



persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate, through the acquisition of shares in Listco by any of them, either directly or indirectly, to obtain or consolidate control of Listco);

- (b) Listco ceases to control directly or indirectly the entire issued share capital of Midco; or
- (c) shares of Listco cease to be admitted to trading on the New York Stock Exchange (unless such shares are substantially contemporaneously admitted to trading on the London Stock Exchange).

**"Charged Property"** has the meaning given to such term in the Intercreditor Agreement.

**"Clean-Up Default"** means, in respect of a Permitted Acquisition under paragraphs (d) and (e) of the definition of 'Permitted Acquisition', any Default or Event of Default which is subsisting on or arising after the completion of such Permitted Acquisition but prior to expiry of the relevant Clean-Up Period relating to that Permitted Acquisition to the extent it relates exclusively to a member of the Acquired Group of such Permitted Acquisition (or any obligation to procure or ensure in relation to a member of that Acquired Group).

**"Clean-Up Period"** means, in respect of a Permitted Acquisition under paragraphs (d) and (e) of the definition of 'Permitted Acquisition', the period from the date of completion of such Permitted Acquisition to the date falling 120 days thereafter.

**"Closing Date"** means the April 2017 Effective Date.

**"Code"** means the US Internal Revenue Code of 1986.

**"Commitment"** means an Original Revolving Facility Commitment, a Facility B3 Commitment, a Facility B4 Commitment, a Facility B5 Commitment, a Facility B6 Commitment, a Facility B7 Commitment or an Additional Facility Commitment.

**"Compliance Certificate"** means a certificate substantially in the form set out in Schedule 7 (*Form of Compliance Certificate*).

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

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

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

- (i) is or becomes public information other than as a direct or indirect result of any breach by that Finance Party of Clause 42 (*Confidentiality*); or
- (ii) is identified in writing at the time of delivery as non-confidential by any member of the Group or any of its advisers; or



- (iii) is known by that Finance Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Finance Party after that date, from a source which is, as far as that Finance Party is aware, unconnected with the Group and which, in either case, as far as that Finance Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

**"Confidentiality Undertaking"** means a confidentiality undertaking substantially in the agreed form as set out in Schedule 8 (*LMA Form of Confidentiality Undertaking*) or in any other form agreed between Listco and the Agent, in each case capable of being relied on by Listco and not to be amended in any material respect other than as agreed to by Listco (acting reasonably).

**"Consolidated EBITDA"** has the meaning given to such term in Clause 26.1 (*Financial definitions*).

**"Consolidated Total Net Debt"** has the meaning given to such term in Clause 26.1 (*Financial definitions*).

**"Credit Facility"** has the meaning given to such term in the Intercreditor Agreement.

**"CTA"** means the Corporation Tax Act 2009.

**"Debt Cover"** has the meaning given to such term in Clause 26.1 (*Financial definitions*).

**"Debt Cover Condition"** has the meaning given to such term in Clause 27.35 (*Covenant suspension/relaxation*).

**"Debt Purchase Transaction"** means, in relation to a person, a transaction where such person:

- (a) owns or purchases by way of assignment or transfer;
- (b) enters into any sub-participation in respect of; or
- (c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,

any Commitment or amount outstanding under or in respect of this Agreement.

**"December 2017 Additional Facility Effective Time"** has the meaning given to the term "Additional Facility Effective Time" in the December 2017 Amendment and Restatement Agreement.

**"December 2017 Allocations Table"** has the meaning given to the term "Allocations Table" in the December 2017 Amendment and Restatement Agreement.

**"December 2017 Amendment and Restatement Agreement"** means the amendment and restatement agreement, in relation to this Agreement, dated 20 December 2017 between, among others, Listco and the Agent.

**"December 2017 Effective Date"** has the meaning given to the term "Effective Date" in the December 2017 Amendment and Restatement Agreement.

**"Declared Default"** means an Event of Default under paragraph (a) of that definition in respect of which a notice of acceleration has been served pursuant to paragraph (a) of Clause 28.16 (*Acceleration*).



**"Default"** means:

- (a) an Event of Default under paragraph (a) of that definition or any event or circumstance specified as such in Clause 28 (*Events of Default*) which would (with the expiry of a grace period in, or the giving of notice under, Clause 28 (*Events of Default*), or any combination of any of the foregoing) be an Event of Default under paragraph (a) of that definition; and
- (b) with respect to each Revolving Facility only, a Financial Covenant Event of Default or any requirement of Clause 26 (*Financial covenant*) not being satisfied which would (with the expiry of the period for remedy provided for in paragraph (d) of Clause 26.3 (*Financial testing*)) be an Event of Default.

**"Delegate"** means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

**"Designated Gross Amount"** has the meaning given to that term in Clause 9.2 (*Availability*).

**"Designated Net Amount"** has the meaning given to that term in Clause 9.2 (*Availability*).

**"Disruption Event"** means either or both of:

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

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

**"Dutch Additional Obligor"** means an Additional Obligor incorporated in the Netherlands.

**"Dutch Civil Code"** means the Dutch Civil Code (*Burgerlijk Wetboek*).

**"Dutch Financial Supervision Act"** means the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) dated 28 September 2006 published in the Dutch government gazette nr. 475 on 31 October 2006, as amended from time to time.

**"Dutch Obligor"** means an Obligor incorporated in the Netherlands.

**"Environmental Claim"** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

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

- (a) the pollution or protection of the environment;
- (b) harm to or the protection of human health;



- (c) the conditions of the workplace; or
- (d) any emission or substance capable of causing harm to any living organism or the environment.

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

**"ERISA"** means the US Employee Retirement Income Security Act 1974 (or any successor legislation thereto).

**"EURIBOR"** means, in relation to any Loan in euro:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for the Interest Period of that Loan) the Interpolated Screen Rate for that Loan; or
- (c) (if no Screen Rate is available for the Interest Period of that Loan and it is not possible to calculate an Interpolated Screen Rate for that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks as the rate which the relevant Reference Bank could borrow funds in the European interbank market,

as of (in the case of paragraphs (a) and (c) above) the Specified Time on the Quotation Day for euro for a period equal in length to the Interest Period of the relevant Loan, and provided that (in each case) if any such rate is below zero, EURIBOR will be deemed to be zero.

**"Euro Denominated Facility"** means each of Facility B3, Facility B5, the Original Revolving Facility and any Additional Facility denominated in euro.

**"Event of Default"** means:

- (a) with respect to each Facility, any event or circumstance specified as such in Clause 28 (*Events of Default*); and
- (b) with respect to each Revolving Facility only, a Financial Covenant Event of Default.

**"Excess Cashflow"** has the meaning given to that term in Clause 26.1 (*Financial definitions*).

**"Expiry Date"** means, for a Letter of Credit, the last day of its Term.

**"Facility"** means a Term Facility, a Revolving Facility or an Additional Facility.

**"Facility B3"** means the term loan facility made available under this Agreement as described in paragraph (a)(i) of Clause 2.1 (*The Facilities*).

**"Facility B3 Commitment"** means:

- (a) in relation to an Original Lender of Facility B3, the amount in euro set opposite its name under the heading "Facility B3 Commitment" in the December 2017 Allocations Table (being, for the avoidance of any doubt, in the case of Credit Suisse International, as at the December 2017 Additional Facility Effective Time, a principal amount equal to €33,227,898.43) and the amount of any other Facility B3 Commitment transferred to it



under this Agreement or arising as a result of any redesignation of any Facility B5 Commitment pursuant to Clause 2.5 (*Redesignation of Facility B5 upon the Fungibility Date*); and

- (b) in relation to any other Lender, the amount in euro of any Facility B3 Commitment transferred to it under this Agreement and the amount of any other Facility B3 Commitment transferred to it under this Agreement or arising as a result of any redesignation of any Facility B5 Commitment pursuant to Clause 2.5 (*Redesignation of Facility B5 upon the Fungibility Date*),

to the extent not cancelled, reduced or transferred by it under this Agreement.

**"Facility B3 Loan"** means a loan made or to be made under Facility B3 or the principal amount outstanding for the time being of that loan including:

- (a) for the avoidance of doubt, any loan deemed to have been made under Facility B3 upon the occurrence of the December 2017 Additional Facility Effective Time pursuant to the December 2017 Amendment and Restatement Agreement; and
- (b) as made or increased (or deemed to have been made or increased) as a result of the operation of Clause 2.5 (*Redesignation of Facility B5 upon the Fungibility Date*).

**"Facility B4"** means the term loan facility made available under this Agreement as described in paragraph (a)(ii) of Clause 2.1 (*The Facilities*).

**"Facility B4 Commitment"** means:

- (a) in relation to an Original Lender of Facility B4, the amount in US\$ set opposite its name under the heading "Facility B4 Commitment" in the December 2017 Allocations Table (being, for the avoidance of any doubt, in the case of Credit Suisse International, as at the December 2017 Additional Facility Effective Time, a principal amount equal to US\$96,312,164.29) and the amount of any other Facility B4 Commitment transferred to it under this Agreement or arising as a result of any redesignation of any Facility B6 Commitment pursuant to Clause 2.6 (*Redesignation of Facility B6 upon the Fungibility Date*) or Facility B7 Commitment pursuant to Clause 2.7 (*Redesignation of Facility B7 upon the Facility B7 Fungibility Date*); and
- (b) in relation to any other Lender, the amount in US\$ of any Facility B4 Commitment transferred to it under this Agreement and the amount of any other Facility B4 Commitment transferred to it under this Agreement or arising as a result of any redesignation of any Facility B6 Commitment pursuant to Clause 2.6 (*Redesignation of Facility B6 upon the Fungibility Date*) or Facility B7 Commitment pursuant to Clause 2.7 (*Redesignation of Facility B7 upon the Facility B7 Fungibility Date*),

to the extent not cancelled, reduced or transferred by it under this Agreement.

**"Facility B4 Loan"** means a loan made or to be made under Facility B4 or the principal amount outstanding for the time being of that loan including:

- (a) for the avoidance of doubt, any loan deemed to have been made under Facility B4 upon the occurrence of the December 2017 Additional Facility Effective Time pursuant to the December 2017 Amendment and Restatement Agreement; and



- (b) as made or increased (or deemed to have been made or increased) as a result of the operation of Clause 2.6 (*Redesignation of Facility B6 upon the Fungibility Date*) or Clause 2.7 (*Redesignation of Facility B7 upon the Facility B7 Fungibility Date*).

**"Facility B5"** means the term loan facility made available under this Agreement as described in paragraph (a)(iii) of Clause 2.1 (*The Facilities*).

**"Facility B5 Commitment"** means:

- (a) in relation to an Original Lender of Facility B5, the amount in euro set opposite its name in Part II of Schedule 1 (*The Parties*) and the amount of any other Facility B5 Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in euro of any Facility B5 Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced (including as a result of any redesignation of any Facility B5 Commitment as a Facility B3 Commitment pursuant to Clause 2.5 (*Redesignation of Facility B5 upon the Fungibility Date*)) or transferred by it under this Agreement.

**"Facility B5 Loan"** means a loan made or to be made under Facility B5 or the principal amount outstanding for the time being of that loan (subject to the operation of Clause 2.5 (*Redesignation of Facility B5 upon the Fungibility Date*)).

**"Facility B6"** means the term loan facility made available under this Agreement as described in paragraph (a)(iv) of Clause 2.1 (*The Facilities*).

**"Facility B6 Commitment"** means:

- (a) in relation to an Original Lender of Facility B6, the amount in US\$ set opposite its name in Part II of Schedule 1 (*The Parties*) and the amount of any other Facility B6 Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in US\$ of any Facility B6 Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced (including as a result of any redesignation of any Facility B6 Commitment as a Facility B4 Commitment pursuant to Clause 2.6 (*Redesignation of Facility B6 upon the Fungibility Date*)) or transferred by it under this Agreement.

**"Facility B6 Loan"** means a loan made or to be made under Facility B6 or the principal amount outstanding for the time being of that loan (subject to the operation of Clause 2.6 (*Redesignation of Facility B6 upon the Fungibility Date*)).

**"Facility B7"** means the term loan facility made available under this Agreement as described in paragraph (a)(v) of Clause 2.1 (*The Facilities*).

**"Facility B7 Commitment"** means:

- (a) in relation to an Original Lender of Facility B7, the amount in US\$ set opposite its name in Part II of Schedule 1 (*The Parties*) and the amount of any other Facility B7 Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in US\$ of any Facility B7 Commitment transferred to it under this Agreement,



to the extent not cancelled, reduced (including as a result of any redesignation of any Facility B7 Commitment as a Facility B4 Commitment pursuant to Clause 2.7 (*Redesignation of Facility B7 upon the Facility B7 Fungibility Date*)) or transferred by it under this Agreement.

**"Facility B7 Fungibility Date"** means, in relation to Facility B7, the last day of the then current Interest Period for the Facility B4 Loan as at the last day of the Availability Period for Facility B7 (or such later date as Listco and the Agent may agree), provided that, for the avoidance of any doubt, no Facility B7 Fungibility Date will occur in respect of Facility B7 if that Facility is not utilised during its Availability Period.

**"Facility B7 Loan"** means a loan made or to be made under Facility B7 or the principal amount outstanding for the time being of that loan (subject to the operation of Clause 2.7 (*Redesignation of Facility B7 upon the Facility B7 Fungibility Date*)).

**"Facility Office"** means the office or offices notified by a Lender or the Issuing Bank to the Agent in writing on or before the date it becomes a Lender or the Issuing Bank (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

**"FATCA"** means:

- (a) sections 1471 to 1474 of the Code, any associated regulations and other official guidance;
- (b) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the United States and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation or official guidance referred to in paragraph (a) above; and
- (c) any agreement pursuant to the implementation of paragraphs (a) or (b) above with the United States Internal Revenue Service, the government of the United States or any governmental or taxation authority in any other jurisdiction.

**"FATCA Application Date"** means:

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

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

**"FATCA Deduction"** means a deduction or withholding from a payment under a Finance Document required by FATCA.



**"FATCA Exempt Party"** means a Party that is entitled to receive payments free from any FATCA Deduction.

**"Federal Reserve Board"** means the Board of Governors of the Federal Reserve System of the United States (or any successor thereto).

**"Fee Letter"** means:

- (a) any letter or letters between:
  - (i) the Agent and Listco; or
  - (ii) the Security Agent and Listco,setting out any of the fees referred to in Clause 17 (*Fees*); and
- (b) any other agreement setting out fees referred to in Clause 17.4 (*Fees payable in respect of Letters of Credit*) or Clause 17.5 (*Interest, commission and fees on Ancillary Facilities*).

**"Finance Document"** means this Agreement, any Accession Letter, any Lender Accession Notice, any Additional Facility Document, any Additional Facility Notice (including for the avoidance of doubt, the Additional Facility Notice in respect of Facility B3, Facility B4, Facility B5, Facility B6 and Facility B7), any Ancillary Document, any Compliance Certificate, any Fee Letter, each Mandate Document, the Intercreditor Agreement, any Resignation Letter, any Selection Notice, any Transaction Security Document, any Utilisation Request, the April 2017 Amendment and Restatement Agreement, the December 2017 Amendment and Restatement Agreement, the 2018 Amendment and Restatement Agreement and any other document designated as a "Finance Document" by the Agent and Listco.

**"Finance Party"** means the Agent, the Arrangers, the Security Agent, a Lender, the Issuing Bank or any Ancillary Lender.

**"Financial Covenant Event of Default"** means, subject to paragraph (d) of Clause 26.3 (*Financial testing*) and paragraph (f) of Clause 1.2 (*Construction*), any requirement of Clause 26.2 (*Financial condition*) is not satisfied.

**"Financial Indebtedness"** means, at any time, Borrowings together with:

- (a) indebtedness owed by one member of the Group to another member of the Group;
- (b) for the purposes of Clause 28.4 (*Cross default*) only, indebtedness arising under derivative transactions (taking into account only the marked to market value of any net payments); and
- (c) indebtedness arising under any agreements in relation to Subordinated Debt.

**"Financial Quarter"** has the meaning given to that term in Clause 26.1 (*Financial definitions*).

**"Financial Year"** has the meaning given to that term in Clause 26.1 (*Financial definitions*).

**"Finco"** means Nomad Foods Europe Finco Limited, a company incorporated in England and Wales with registered number 5879462, which is a wholly-owned subsidiary of Holdco.



**"Findus Italy"** means C.S.I. - Compagnia Surgelati Italiana S.p.A., a company incorporated in Italy with Fiscal Code 07015700961 and whose registered office is at Roma (RO), via Caterina Troiani 75, Italy.

**"Fraudulent Transfer Law"** means any applicable US Bankruptcy Law or any applicable US state fraudulent transfer or conveyance law.

**"Funds Flow Statement"** means a funds flow statement (included sources and uses) in the agreed form.

**"Fungibility Date"** means:

- (a) in relation to Facility B5, the last day of the then current Interest Period for the Facility B3 Loan as at the last day of the Availability Period for Facility B5; and
- (b) in relation to Facility B6, the last day of the then current Interest Period for the Facility B4 Loan as at the last day of the Availability Period for Facility B6,

provided that, for the avoidance of any doubt, no Fungibility Date will occur in respect of Facility B5 or, as applicable, Facility B6 if that Facility is not utilised during its Availability Period.

**"German Additional Obligor"** means an Additional Obligor incorporated in Germany.

**"German Borrower"** means a Borrower incorporated in Germany.

**"German Obligor"** means an Obligor incorporated in Germany.

**"German Property"** means the automated cold storage warehouse in which UBG Vermietungs GmbH & Co. OHG has a freehold interest at Aeckern 4, 48734 Reken, Germany.

**"Group"** means Listco and each of its Subsidiaries for the time being.

**"Group Structure Chart"** means the group structure chart in the agreed form relating to the Group as delivered to the Agent pursuant to Clause 4.1 (*Conditions precedent*).

**"Guarantor"** means an Original Guarantor or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 31 (*Changes to the Obligors*).

**"Guarantor Company"** means any member of the Group which is (or which is required to become) a Guarantor.

**"Guarantor Coverage"** has the meaning it is given in Clause 27.29 (*Guarantors*).

**"Hedging Agreement"** has the meaning given to it in the Intercreditor Agreement.

**"Holdco"** means Nomad Foods Europe Holdco Limited, a company incorporated in England and Wales with registered number 5879245, which is a wholly-owned subsidiary of Topco.

**"Holding Company"** means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

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

**"Information Memorandum"** means the information memorandum dated April 2017 prepared in connection with the April 2017 Amendment and Restatement Agreement.

**"Intellectual Property"** means:



- (a) any patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each member of the Group.

**"Intercreditor Agreement"** means the intercreditor agreement originally dated on 3 July 2014 as amended pursuant to the April 2017 Amendment and Restatement Agreement, between, among others, Listco, Midco, Luxco, the US Co-Borrower and the Security Agent.

**"Interest Period"** means, in relation to a Loan, each period determined in accordance with Clause 15 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 14.3 (*Default interest*).

**"Interpolated Screen Rate"** means, in relation to EURIBOR or LIBOR for any Loan, the rate which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period for which that Screen Rate is available which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period for which that Screen Rate is available which exceeds the Interest Period of that Loan,

each as of the Specified Time on the Quotation Day for the currency of that Loan.

**"Intra-Group Loans"** means the loans made by one member of the Group to another member of the Group.

**"Issuing Bank"** means any Lender which has notified the Agent that it has agreed to Listco's request to be an Issuing Bank pursuant to the terms of this Agreement (and, if more than one Lender has so agreed, such Lenders shall be referred to whether acting individually or together as the **"Issuing Bank"**), **provided that**, in respect of a Letter of Credit issued or to be issued pursuant to the terms of this Agreement, the "Issuing Bank" shall be the Issuing Bank which has issued or agreed to issue that Letter of Credit.

**"ITA"** means the Income Tax Act 2007.

**"Italian Civil Code"** means the Italian civil code, enacted by Royal Decree No. 262 of 16 March 1942, as subsequently amended and supplemented.

**"Joint Venture"** means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

**"L/C Proportion"** means, in relation to a Lender in respect of any Letter of Credit, the proportion (expressed as a percentage) borne by that Lender's Available Commitment under the relevant Revolving Facility to the relevant Available Facility under the relevant Revolving Facility immediately prior to the issue of that Letter of Credit, adjusted to reflect any assignment or transfer under this Agreement to or by that Lender.

**"Legal Reservations"** means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court, the principle of reasonableness and fairness and the limitation of enforcement by



laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors;

- (b) the time barring of claims under applicable limitation laws (including the Limitation Acts), the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defences of set-off or counterclaim;
- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and
- (d) any other general principles or matters which are set out as to matters of law in the legal opinions delivered to the Agent under Part I of Schedule 2 (*December 2017 Conditions Precedent and Conditions Subsequent*) and Part II of Schedule 2 (*2018 Conditions Precedent and Conditions Subsequent*).

**"Lender"** means:

- (a) any Original Lender;
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 29 (*Changes to the Lenders*); and
- (c) upon their accession to this Agreement and the Intercreditor Agreement, any Additional Facility Lender,

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

**"Lender Accession Notice"** means a notice substantially in the form set out in Schedule 13 (*Form of Lender Accession Notice*) or any other form agreed by the Agent and Listco.

**"Letter of Credit"** means:

- (a) a letter of credit, substantially in the form set out in Schedule 10 (*Form of Letter of Credit*) or in any other form requested by a Revolving Facility Borrower (or Listco on its behalf) and agreed by the Agent and the Issuing Bank; or
- (b) any guarantee, indemnity or other instrument in a form requested by a Revolving Facility Borrower (or Listco on its behalf) and agreed by the Agent and the Issuing Bank.

**"LIBOR"** means, in relation to any Loan:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for the currency or Interest Period of that Loan) the Interpolated Screen Rate for that Loan; or
- (c) (if no Screen Rate is available for the currency or Interest Period of that Loan and it is not possible to calculate an Interpolated Screen Rate for that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks as the rate at which the relevant Reference Bank could borrow funds in the London interbank market,

as of (in the case of paragraphs (a) and (c) above) the Specified Time on the Quotation Day for the offering of deposits in the currency of that Loan and for a period equal in length to the



Interest Period for that Loan, and provided that (in each case) if any such rate is below zero, LIBOR will be deemed to be zero.

**"Listco Affiliate"** means any Affiliates of Listco (excluding any member of the Group).

**"LMA"** means the Loan Market Association.

**"Loan"** means a Term Loan or a Revolving Facility Loan.

**"Local Facilities"** means current account, overdraft, letter of credit, foreign exchange and SWIFT and BACS facilities made available to a member of the Group together with any guarantee given by another member of the Group in respect of any Borrowing thereunder.

**"LTM EBITDA"** means Consolidated EBITDA as stated in the most recent Compliance Certificate, calculated in accordance with Clause 26.3 (*Financial testing*).

**"Majority Lenders"** means:

- (a) (for the purposes of paragraph (a) of Clause 41.1 (*Required consents*), in the context of a waiver in relation to a proposed Utilisation under a Facility) of the condition in Clause 4.1 (*Conditions precedent*)), a Lender or Lenders whose Available Commitments with respect to the relevant Facility aggregate more than  $66\frac{2}{3}$  per cent. of the Available Facility; and
- (b) (in any other case), a Lender or Lenders whose Commitments aggregate more than  $66\frac{2}{3}$  per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than  $66\frac{2}{3}$  per cent. of the Total Commitments immediately prior to that reduction).

**"Majority RCF Lenders"** means a Revolving Facility Lender or Revolving Facility Lenders whose Revolving Facility Commitments aggregate more than  $66\frac{2}{3}$  per cent. of the Total Revolving Facility Commitments (or, if the Total Revolving Facility Commitments have been reduced to zero, aggregated more than  $66\frac{2}{3}$  per cent. of the Total Revolving Facility Commitments immediately prior to that reduction).

**"Mandate Documents"** means:

- (a) the mandate letter between, among others, each of the Arrangers (or their Affiliates) and Listco dated 6 April 2017;
- (b) the bond engagement letter between, among others, each of the Arrangers (or their Affiliates) and Listco dated 6 April 2017;
- (c) the mandate letter between, among others, each of the Arrangers (or their Affiliates) and Listco dated 4 December 2017;
- (d) the mandate letter between, among others, the Arrangers (or their Affiliates) and Listco dated 5 June 2018;
- (e) each other mandate document entered into in connection with the above letters and designated a Mandate Document by Listco and the Arrangers (or their Affiliates); and
- (f) any other mandate and/or fee letter relating to any Additional Facility designated a Mandate Document by Listco and the relevant arrangers of that Additional Facility.



**"Mandatory Prepayment Account"** means an interest-bearing account:

- (a) held by a Borrower with the Agent, the Security Agent or any Acceptable Bank;
- (b) identified in a letter between Midco and the Agent as a Mandatory Prepayment Account;
- (c) subject to Security in favour of the Security Agent which Security is in form and substance satisfactory to the Agent and Security Agent; and
- (d) from which no withdrawals may be made by any members of the Group except as contemplated by this Agreement,

as the same may be redesignated, substituted or replaced from time to time.

**"Margin"** means:

- (a) in relation to any Facility B3 Loan, 2.75 per cent. per annum;
- (b) in relation to any Facility B4 Loan, 2.25 per cent. per annum;
- (c) in relation to any Facility B5 Loan, the per cent. per annum rate referred to in paragraph (a) above;
- (d) in relation to any Facility B6 Loan, the per cent. per annum rate referred to in paragraph (b) above;
- (e) in relation to any Facility B7 Loan, the per cent. per annum rate referred to in paragraph (b) above;
- (f) in relation to any Original Revolving Facility Loan, 2.75 per cent. per annum;
- (g) in relation to any Additional Facility, the percentage rate per annum as set out in the Additional Facility Notice relating to that Additional Facility;
- (h) in relation to any Unpaid Sum relating or referable to a Facility, the rate per annum specified above for that Facility; and
- (i) in relation to any other Unpaid Sum, the highest rate specified above.

**"Margin Stock"** means "margin stock" as defined in Regulation U.

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

- (a) the consolidated business, assets or financial condition of the Group taken as a whole such that the Group taken as a whole would be reasonably likely to be unable to perform its payment obligations under any of the Finance Documents; or
- (b) subject to the Legal Reservations and the Perfection Requirements, the validity or enforceability of any Security granted pursuant to any of the Finance Documents in any way which is materially adverse to the interests of the Lenders under the Finance Documents taken as a whole, and, if capable of remedy, not remedied within 20 Business Days of Listco becoming aware of the issue or being given notice of the issue by the Agent.

**"Material Company"** means, at any time:

- (a) an Obligor;



- (b) each Nomad Holdco; or
- (c) any other member of the Group which:
  - (i) is listed in Schedule 11 (*Material Companies*) while such member of the Group satisfies the criteria in paragraph (ii) below; or
  - (ii) has earnings before interest, tax, depreciation and amortisation calculated on the same basis as Consolidated EBITDA, representing 5 per cent. or more of Consolidated EBITDA, or has total assets (calculated on the same basis as Total Assets), representing 5 per cent. or more of the Total Assets of the Group, calculated on a consolidated basis.

Compliance with the conditions set out in paragraph (b)(ii) above shall be determined by reference to the most recent Compliance Certificate and/or the latest audited financial statements of that Subsidiary (consolidated in the case of a Subsidiary which itself has Subsidiaries) and the latest audited consolidated financial statements of the Group (or, if such audited financial statements are not available or required by law, such other appropriate accounts as Listco and the Agent shall agree).

However, if a Subsidiary has been acquired since the date as at which the latest audited consolidated financial statements of the Group were prepared, the financial statements shall be deemed to be adjusted as set out in paragraph (c) of Clause 26.3 (*Financial testing*) in order to take into account the acquisition of that Subsidiary.

A report by the Auditors of Listco that a Subsidiary is or is not a Material Company shall, in the absence of manifest error, be conclusive and binding on all Parties.

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

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

The above rules will only apply to the last month of any period. **"Monthly"** shall be construed accordingly.

**"Net Proceeds"** means the cash proceeds received by any member of the Group after the Closing Date (and, if the recipient is not a wholly-owned Subsidiary of a member of the Group, the proceeds proportionate to the interest held by the Group in the recipient) in connection with any disposal or insurance claim, after deducting:



- (a) fees, costs and expenses incurred by any member of the Group with respect to that disposal or claim to persons who are not members of the Group (including, without limitation, bonus payments to management of the disposed business);
- (b) any Tax incurred and required to be paid or reserved for by the seller or claimant in connection with that disposal or claim (as reasonably determined by the seller or claimant) or the transfer of the proceeds thereof intra-Group;
- (c) amounts retained to cover anticipated liabilities reasonably expected to arise in connection with the disposal; and
- (d) costs of closure, relocation, reorganisation and restructuring, and costs incurred preparing the asset for disposal.

**"New Debt Financing"** has the meaning given to such term in the Intercreditor Agreement.

**"New Equity"** means (a) a subscription for shares in Listco by any of its shareholders or (b) any other form of equity contribution to Listco from any of its shareholders which, in each case, is not redeemable prior to the latest Termination Date for each of the Facilities.

**"Nomad Holdco"** means each of Listco, Topco, Holdco, Finco, Midco, Bondco, Bidco, Luxco and the US Co-Borrower.

**"Obligor"** means a Borrower or a Guarantor.

**"Obligors' Agent"** means Listco, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 2.3 (*Obligors' Agent*).

**"Optional Currency"** means, in relation to a Revolving Facility Utilisation, a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.2 (*Conditions relating to Optional Currencies*).

**"Original Facilities"** means the Facilities other than any Additional Facility.

**"Original Financial Statements"** means the most recent audited annual consolidated financial statements of the Group as delivered to the Agent pursuant to Clause 4.1 (*Conditions precedent*).

**"Original Obligor"** means an Original Borrower or an Original Guarantor.

**"Original Revolving Facility"** means the revolving credit facility made available under this agreement as described in paragraph (a)(vi) of Clause 2.1 (*The Facilities*).

**"Original Revolving Facility Lender"** means a Lender which has an Original Revolving Facility Commitment.

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

**"Original Revolving Facility Borrower"** means a Borrower listed in Part I of Schedule 1 (*The Parties*) as a Revolving Facility Borrower.

**"Original Revolving Facility Commitment"** means:

- (a) in relation to an Original Lender, the amount in the Base Currency set opposite its name under the heading "Original Revolving Facility Commitment" in the April 2017 Allocations



Table and the amount of any other Original Revolving Facility Commitment transferred to it under this Agreement; and

- (b) in relation to any other Lender, the amount in the Base Currency of any Original Revolving Facility Commitment transferred to it under this Agreement,

to the extent not transferred by it, cancelled or reduced under this Agreement.

**"Original Senior Facilities Agreement"** has the meaning given to the term "Original Facilities Agreement" in the 2018 Amendment and Restatement Agreement.

**"Original Senior Secured Notes"** has the meaning given to that term in the Intercreditor Agreement.

**"Original Term Facility Borrower"** means a Borrower listed in Part I of Schedule 1 (*The Parties*) as a Term Facilities Borrower.

**"Pari Passu Debt Loan"** has the meaning given to that term in the Intercreditor Agreement.

**"Participating Member State"** means any member state of the European Union that adopts or has adopted, and in each case continues to adopt, the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

**"Party"** means a party to this Agreement.

**"Perfection Requirements"** means the making or the procuring of the appropriate registrations, filings, endorsements, notarisations, stampings and/or notifications of the Transaction Security Documents and/or the Transaction Security created thereunder in order to perfect the Transaction Security.

**"Permitted Acquisition"** means:

- (a) an acquisition by a member of the Group of an asset sold, leased, transferred or otherwise disposed of by another member of the Group in circumstances constituting a Permitted Disposal or a Permitted Transaction;
- (b) an acquisition of securities which are Cash Equivalent Investments;
- (c) the acquisition by a member of the Group (other than Listco) of the share of the other joint venture partner under the terms of any joint venture agreement existing on the Closing Date;
- (d) an acquisition (not being an acquisition by Listco) of (A) the issued share capital of a limited liability company provided that following such acquisition the Group shall own more than fifty (50) per cent. of such shares, or (B) any business or undertaking (or part thereof) provided that following such acquisition the Group shall own the majority of such business or undertaking but only if:
  - (i) no Event of Default is continuing on the acquisition contract date for the acquisition or would occur as at the acquisition contract date as a result of the acquisition;
  - (ii) following the completion of such acquisition, the target entity and its Subsidiaries become members of the Group or (as the case may be) the relevant business or undertaking is acquired by a member or members of the Group;



- (iii) the business of the target and its Subsidiaries or the relevant acquired business or undertaking (as the case may be) is similar, complementary or related to the business of the Group; and
- (iv) the target entity and its Subsidiaries or (as the case may be) the relevant acquired business or undertaking is not incorporated in and does not carry on any of its business or operations in a Sanctioned Country; or
- (e) the acquisition of the issued share capital of a limited liability company (including by way of formation) which has not traded prior to the date of the acquisition.

**"Permitted Disposal"** means any sale, lease, licence, transfer or other disposal which, except in the case of paragraph (b) below, is on arm's length terms and which is:

- (a) of trading assets made by any member of the Group in the ordinary course of trading of the disposing entity;
- (b) of any asset by a member of the Group (the "**Disposing Company**") to another member of the Group (the "**Acquiring Company**"), but, if the Disposing Company is a Guarantor, the Acquiring Company must also be a Guarantor and if the Disposing Company has given Security over the asset the Acquiring Company must, subject to the Security Principles, give equivalent Security over the asset;
- (c) of any asset from an Obligor to a member of the Group which is not an Obligor, **provided that** the aggregate amount transferred by all Obligors (net of the value of any assets transferred from a member of the Group which is not an Obligor to an Obligor) does not exceed at any time EUR 50,000,000 or its equivalent;
- (d) of assets (other than shares, businesses or intellectual property) in exchange for other assets reasonably comparable or superior as to type or quality for use in the business;
- (e) of assets (other than shares in any member of the Group) which are obsolete or which are no longer required for the relevant person's business or operations (including, for the avoidance of any doubt, any Intellectual Property which Listco determines is no longer required for the business or operations of the Group);
- (f) of Cash or Cash Equivalent Investments;
- (g) constituted by a licence of Intellectual Property;
- (h) to a Joint Venture, to the extent permitted by Clause 27.8 (*Joint Ventures*);
- (i) of assets compulsorily acquired by any governmental authority;
- (j) a lease or licence of Real Property in the ordinary course of business;
- (k) of the German Property, **provided that** the German Property must be leased back to the Group on terms to be agreed immediately upon disposal;
- (l) arising as a result of any Permitted Security (including by way of release of proceeds from any escrow or similar arrangements relating to any Senior Secured Creditor Liabilities (as defined in the Intercreditor Agreement) or Second Lien Debt Liabilities (as defined in the Intercreditor Agreement)) or Permitted Transaction;



- (m) of fixed assets where the proceeds of disposal are used within 12 Months of that disposal to purchase replacement fixed assets comparable or superior as to type, value and quality;
- (n) of any asset pursuant to a contractual arrangement existing as at the Closing Date;
- (o) of receivables for cash payable on or about the time of disposal on a non-recourse basis (other than customary warranties as to title); or
- (p) of assets for cash where the net consideration receivable (when aggregated with the net consideration receivable for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs) does not exceed the higher of (i) EUR 100,000,000 (or its equivalent) and (ii) 30 per cent. of LTM EBITDA in any Financial Year of Listco.

**"Permitted Financial Indebtedness"** means Financial Indebtedness:

- (a) constituting the Original Senior Secured Notes, or arising under any of the Finance Documents or otherwise to the extent permitted under Clause 2.4 (*Additional Facilities*) or arising under any agreements in relation to Subordinated Debt, in each case provided that the relevant creditor (or representative thereof) is a party to the Intercreditor Agreement in such capacity, and subject always to the terms of this Agreement and the Intercreditor Agreement;
- (b) to the extent covered by a Letter of Credit or other letter of credit, guarantee or indemnity issued under an Ancillary Facility;
- (c) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency or interest rates and not for investment or speculative purposes;
- (d) arising under a Permitted Loan, Permitted Guarantee, Permitted Transaction or Permitted Joint Venture;
- (e) of any person acquired by a member of the Group after the Closing Date which is incurred under arrangements in existence at the date of acquisition, but not incurred or the principal amount increased (otherwise than by capitalisation of interest) or its maturity date extended in contemplation of, or since, that acquisition (any such Financial Indebtedness being "**Acquired Debt**"), provided that, for the Relevant Period ending on the Quarter Date falling immediately prior to the date of completion of the relevant acquisition, Debt Cover is less than or equal to 5.25:1, with such Debt Cover calculated
  - (x) *pro forma* as if that Acquired Debt had been drawn in full at the beginning of such Relevant Period; (y) *pro forma* for the relevant acquisition, as if such acquisition had occurred at the beginning of such Relevant Period and after taking into account (as applicable) any Pro Forma Adjustment in relation to such acquisition and for such Relevant Period; and (z) *pro forma* for any Permitted Payment in the period following such Quarter Date, in each case, as confirmed by a certificate from Listco containing the relevant calculations;
- (f) under finance or capital leases of vehicles, plant, equipment or computers, **provided that** the aggregate capital value of all such items so leased under outstanding leases by



members of the Group does not exceed the higher of (i) EUR 50,000,000 (or its equivalent) and (ii) 15 per cent. of LTM EBITDA at any time;

- (g) raised by the leaseback of the German Property;
- (h) raised by the issue of redeemable shares which are either held by another member of the Group or not redeemable at the option of their holder until after the latest Termination Date for each of the Facilities;
- (i) raised under Local Facilities, **provided that** the aggregate amount of that indebtedness does not exceed at any time EUR 35,000,000 (or its equivalent);
- (j) arising under any cash pooling or management arrangement with an Acceptable Bank;
- (k) falling within paragraph (f) of the definition of 'Borrowings';
- (l) arising in connection with any forward contracts for fish stock entered into in the ordinary course of business; and
- (m) not permitted by the preceding paragraphs (although permitted to be used for any purpose, including any of those set out in the above paragraphs) and the outstanding principal amount of which does not exceed the higher of (i) EUR 100,000,000 (or its equivalent) and (ii) 2.5 per cent. of Total Assets at any time.

**"Permitted Guarantee"** means:

- (a) any guarantee arising under the Finance Documents, and, provided that such guarantee is subject to the terms of the Intercreditor Agreement, the Senior Secured Finance Documents (as defined in the Intercreditor Agreement) and/or the Second Lien Debt Documents (as defined in the Intercreditor Agreement);
- (b) a guarantee by a member of the Group of the obligations of an Obligor which is a member of the Group;
- (c) a guarantee by an Obligor of the obligations of a member of the Group not being an Obligor, provided that the aggregate amount guaranteed does not exceed EUR 50,000,000 or its equivalent in aggregate for all such guarantees at any time;
- (d) a guarantee by a member of the Group which is not an Obligor of the obligations of another member of the Group which is not an Obligor;
- (e) guarantees granted by persons or undertakings acquired pursuant to a Permitted Acquisition and existing at the time of such acquisition, provided that such guarantees are discharged within a period of six Months after the date of the acquisition;
- (f) guarantees of Acquired Debt granted by persons or undertakings acquired pursuant to a Permitted Acquisition and existing at the time of such acquisition;
- (g) guarantees of Permitted Transactions and Treasury Transactions not prohibited under Clause 27.27 (*Treasury Transactions*);
- (h) guarantees to landlords;
- (i) guarantees or counter-indemnities in favour of financial institutions which have guaranteed rent obligations of a member of the Group;



- (j) the endorsement of negotiable instruments in the ordinary course of trade;
- (k) any guarantees guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of business;
- (l) any guarantee of a Joint Venture to the extent permitted by Clause 27.8 (*Joint Ventures*);
- (m) any guarantee in respect of Permitted Financial Indebtedness (other than any Acquired Debt);
- (n) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (b) of the definition of 'Permitted Security';
- (o) any guarantee granted in connection with a Permitted Disposal in an amount not exceeding the value of the asset disposed of;
- (p) any indemnity granted to the trustee of any employee share option or unit trust scheme;
- (q) a guarantee required by applicable law to be issued to secure claims of employees in respect of part-time work arrangements, transfer of employment relationships or similar claims;
- (r) guarantees and counter-indemnities granted by members of the Group as required by the Swedish PRI Pensionsgaranti; and
- (s) any guarantee not permitted by the preceding paragraphs and the outstanding principal amount of which does not exceed the higher of (i) EUR 20,000,000 (or its equivalent) and (ii) 5 per cent. of LTM EBITDA in aggregate for the Group at any time;

**"Permitted Holding Company Activity" means:**

- (a) normal holding company activities, including (without limitation) those referred to in the definition of 'Permitted Payments' as carried on at that level;
- (b) any Permitted Loans in respect of Permitted Joint Ventures (other than a Permitted Loan to a Permitted Joint Venture entered by Bondco);
- (c) any Permitted Loans in respect of Permitted Payments;
- (d) any Permitted Financial Indebtedness, Permitted Guarantee or Permitted Security (or other liabilities incurred under the Finance Documents or falling under paragraph (a) of the definition of 'Permitted Financial Indebtedness');
- (e) guarantees of Permitted Financial Indebtedness other than Subordinated Debt;
- (f) the provision of management and administrative services, research and development and marketing and the secondment of employees;
- (g) any Permitted Transaction (other than under paragraphs (d) and (g) of that definition);
- (h) in the case of Bidco, the holding of Intellectual Property of the Group on behalf of itself and the Group;
- (i) any Permitted Share Issue under paragraphs (b) of that definition;



- (j) in the case of Listco, acting as a Holding Company of Topco, and in the case of each other Nomad Holdco, acting as a Holding Company of each member of the Group of which it is a Holding Company from time to time; and
- (k) any Permitted Acquisition (other than, in the case of Listco, Permitted Acquisitions falling under paragraphs (c) or (d) of the definition of Permitted Acquisition);
- (l) in the case of Listco, complying with any relevant listing rules or securities laws;
- (m) the entry into and performance of its obligations under any engagement letter, purchase agreement, escrow agreement, indenture and/or any other document entered into in connection with the incurrence of any Senior Secured Notes and/or any Second Lien Debt Notes (provided that, in each case, such document, transaction and performance is not prohibited by this Agreement or the Intercreditor Agreement).

**"Permitted Joint Venture"** means:

- (a) any investment in any Joint Venture pursuant to any agreement existing on the Closing Date (provided that the amount of such investment is not increased after the Closing Date);
- (b) any other investment (other than by Listco) in any Joint Venture the business of which is similar, complementary or related to the business of the Group (a **"Joint Venture Investment"**), provided that:
  - (i) no member of the Group is to incur unlimited liability in respect of its involvement in a Joint Venture;
  - (ii) no Event of Default is continuing or would result from such investment being made; and
  - (iii) for the Relevant Period ending on the Quarter Date falling immediately prior to the date of such Joint Venture Investment (calculated *pro forma* taking into account such Joint Venture Investment and any Financial Indebtedness incurred to fund such Joint Venture Investment (and, in relation to the period following the Closing Date but prior to the first Quarter Date to occur after Closing Date, calculated *pro forma* for the transactions occurring on the Closing Date)), Debt Cover does not exceed 5.25:1 (and such Debt Cover calculation shall be confirmed by a certificate from Listco).

**"Permitted Loan"** means:

- (a) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities and any advance payment made in relation to capital expenditure in the ordinary course of business;
- (b) a loan made to a Joint Venture to the extent permitted under Clause 27.8 (*Joint Ventures*);
- (c) subject to the terms of the Intercreditor Agreement, any loan made for the purposes of enabling an Obligor which is a member of the Group to meet its payment obligations under the Finance Documents, to make a Permitted Payment, (to the extent not



prohibited by a Finance Document) a payment under an Intra-Group Loan or to facilitate compliance with applicable law;

- (d) a loan made by an Obligor which is a member of the Group to another Obligor which is a member of the Group, or made by a member of the Group which is not an Obligor to another member of the Group, **provided that**, in the event that a member of the Group which is not an Obligor is a creditor in relation to Financial Indebtedness made available to any Obligor having a value in aggregate in excess of EUR 5,000,000 (or its equivalent) at any time, such member of the Group which is not an Obligor will accede to the Intercreditor Agreement as an Intra-Group Lender (as such term is defined in the Intercreditor Agreement);
- (e) any loan made by an Obligor which is a member of the Group to a member of the Group which is not an Obligor or to a member of the Group whose shares are subject to the Transaction Security, so long as the aggregate amount of the Financial Indebtedness under any such loans does not exceed EUR 50,000,000 or its equivalent at any time;
- (f) a loan made by a member of the Group to an employee or director of any member of the Group if the amount of that loan when aggregated with the amount of all loans to employees and directors by members of the Group does not exceed EUR 5,000,000 or its equivalent at any time;
- (g) any loans made to an employee share option scheme or unit trust scheme up to an aggregate amount of EUR 5,000,000 or its equivalent;
- (h) any deferred consideration on Permitted Disposals;
- (i) any loans existing on the Closing Date;
- (j) loans which constitute Permitted Financial Indebtedness (except under paragraph (c) of that definition); and
- (k) any loan (other than a loan made by a member of the Group to another member of the Group) so long as the aggregate amount of the Financial Indebtedness under any such loans does not exceed the higher of (i) EUR 20,000,000 (or its equivalent) and (ii) 5 per cent. of LTM EBITDA at any time.

**"Permitted Payment"** means:

- (a) the making of a loan, a payment of a dividend by Listco, a payment of interest on or repayment of principal of any Subordinated Debt, or a reduction of the number of issued shares in Listco (or any other buy-back, redemption or re-purchase by Listco of shares in Listco or any other reduction in the number of issued shares in Listco), provided that:
  - (i) after taking into account the payment, repayment, repurchase or reduction, Debt Cover (calculated *pro forma* for the proposed dividend, payment or reduction and *pro forma* for the source of funding for such dividend, payment, repayment, repurchase or reduction, including, as applicable, any Financial Indebtedness incurred to fund such dividend, payment, repayment, repurchase or reduction and/or (but without double counting) any reduction in Cash) is equal to or less than 3.75:1; and



- (ii) no Event of Default is continuing or would arise from the relevant dividend, payment, repayment, repurchase or reduction being made;
- (b) the making of a loan, a payment of a dividend by Listco, a payment of interest on or repayment of principal of any Subordinated Debt, or a reduction of the number of issued shares in Listco (or any other buy-back, redemption or re-purchase by Listco of shares in Listco or any other reduction in the number of issued shares in Listco), provided that:
  - (i) after taking into account the payment, repayment, repurchase or reduction, Debt Cover (calculated *pro forma* for the proposed dividend, payment, repayment, repurchase or reduction, including the reduction in Cash consequent on using Retained Cash to fund such dividend, payment, repayment, repurchase or reduction) is equal to or less than 4.25:1; and
  - (ii) it is funded from Retained Cash; and
  - (iii) no Event of Default is continuing or would arise from the relevant dividend, payment, repayment, repurchase or reduction being made;
- (c) the making of a loan, a payment of a dividend by Listco, a payment of interest on or repayment of principal of any Subordinated Debt, or a reduction of the number of issued shares in Listco (or any other buy-back, redemption or re-purchase by Listco of shares in Listco or any other reduction in the share capital of Listco), provided that:
  - (i) after taking into account the payment, repayment, re-purchase or reduction, Debt Cover (calculated *pro forma* for the proposed dividend, payment, reduction, repayment or re-purchase, including the reduction in Cash consequent on making any such dividend, payment, repayment, re-purchase or reduction under this paragraph (c)) is equal to or less than 4.50:1;
  - (ii) it is not funded with the proceeds of any Financial Indebtedness;
  - (iii) the aggregate amount of payments by Listco under this paragraph (c) does not exceed EUR 100,000,000 over the life of the Facilities; and
  - (iv) no Event of Default is continuing or would arise from the relevant dividend, payment, repayment, re-purchase or reduction being made;
- (d) a reduction of the number of issued shares in Listco (or any other buy-back, redemption or re-purchase by Listco of shares in Listco or any other reduction in the number of issued shares in Listco), provided that:
  - (i) payment, repayment (in each case to the extent not otherwise restricted under a Finance Document), reduction or re-purchase, Debt Cover (calculated *pro forma* for the proposed payment, repayment (in each case to the extent not otherwise restricted under a Finance Document), reduction or re-purchase, including the reduction in Cash consequent on making any such payment under this paragraph (d)) is equal to or less than 4.50:1;
  - (ii) it is not funded with the proceeds of any Financial Indebtedness and the aggregate amount of payments by Listco under this paragraph (d) does not exceed EUR 150,000,000 over the life of the Facilities; and



- (iii) no Event of Default is continuing or would arise from the relevant payment, repayment or reduction being made;
- (e) the making of a loan, a payment of a dividend, a payment of interest on or repayment of principal of any loan (in each case) by a member of the Group to another member of the Group or a reduction of share capital by any member of the Group (other than Listco) (or any other buy-back or re-purchase by such member of the Group of its share capital) (in each case to the extent not otherwise restricted under a Finance Document);
- (f) the payment of a dividend or distribution of share premium reserve or redemption, repurchase, defeasement, retirement, repayment or reduction of its share capital by a member of the Group (other than Listco), **provided that**, if such a member of the Group is not a wholly-owned Subsidiary of its Holding Company, the dividend or distribution or other payment attributable to its minority shareholders shall be proportionate to their shareholding;
- (g) a payment which is a Permitted Transaction or which constitutes the issuance in-kind of New Equity or any payment in-kind, dividend in-kind or distribution in-kind, in each case, by Listco to any of its shareholders;
- (h) a payment to fund the purchase of any of the management equity (together with the purchase or repayment of any related loans) and/or to make other compensation payments to departing management; and
- (i) any payments not permitted by the preceding paragraphs, in an aggregate annual amount not exceeding the higher of (i) EUR 10,000,000 and (ii) 3 per cent. of LTM EBITDA per Financial Year.

**"Permitted Security" means:**

- (a) any lien arising by operation of law or agreement of similar effect and in the ordinary course of trading and, if arising as a result of any default or omission by any member of the Group, which does not subsist for a period of more than 60 days;
- (b) any Security arising under any netting or set-off arrangement entered into by any member of the Group in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Group (including an Ancillary Facility which is an overdraft comprising more than one account) but only so long as such arrangement is not established with the primary intention of preferring any lenders;
- (c) any Security or Quasi-Security over or affecting any asset acquired by a member of the Group after the Closing Date if:
  - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that asset by a member of the Group;
  - (ii) the principal amount secured has not been increased (otherwise than by a capitalisation of interest) in contemplation of or since the acquisition of that asset by a member of the Group; and
  - (iii) the Security or Quasi-Security is (i) in relation to any Acquired Debt or (ii) removed or discharged within six Months of the date of acquisition of such asset;



- (d) any Security or Quasi-Security over or affecting any asset of any company which becomes a member of the Group after the Closing Date, where the Security or Quasi-Security is created prior to the date on which that company becomes a member of the Group if:
  - (i) the Security or Quasi-Security was not created in contemplation of the acquisition of that company;
  - (ii) the principal amount secured has not increased (otherwise than by a capitalisation of interest) in contemplation of or since the acquisition of that company; and
  - (iii) the Security or Quasi-Security is (i) in relation to any Acquired Debt or (ii) removed or discharged within six Months of that company becoming a member of the Group;
- (e) any Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of business and, unless disputed in good faith, not arising as a result of any default or omission by any member of the Group that is continuing for a period of more than 60 days;
- (f) any Security or Quasi-Security arising in connection with a disposal which is a Permitted Disposal or arising in connection with a Permitted Acquisition;
- (g) any Security or Quasi-Security arising as a consequence of any finance lease permitted pursuant to paragraph (f) of the definition of 'Permitted Financial Indebtedness';
- (h) any Security under netting or set-off arrangements under Treasury Transactions not prohibited under Clause 27.27 (*Treasury Transactions*);
- (i) any Security arising as a result of legal proceedings discharged within 30 days or otherwise contested in good faith (and not otherwise constituting an Event of Default);
- (j) any Transaction Security (provided that such Security is subject to the terms of the Intercreditor Agreement), including cash collateral to secure obligations under the Finance Documents, and any Security arising in connection with any escrow or similar arrangements relating to any Senior Secured Creditor Liabilities (as defined in the Intercreditor Agreement) or Second Lien Debt Liabilities (as defined in the Intercreditor Agreement);
- (k) any Security over any rental deposits in respect of any property leased or licensed by a member of the Group in respect of amounts representing not more than 12 Months' rent for that property;
- (l) any Security over documents of title and goods as part of a documentary credit transaction entered into in the ordinary course of business;
- (m) any Security granted by a member of the Group not being an Obligor to a financial institution as part of the arrangements with that institution to provide Local Facilities to that member of the Group in an amount not exceeding in aggregate EUR 5,000,000 or its equivalent for all such members of the Group at any time;



- (n) any Security over shares in Joint Ventures to secure obligations to the other joint venture partners;
- (o) any Security over bank accounts in favour of the account holding bank and granted as part of that financial institution's standard terms and conditions;
- (p) any Security which does not secure any outstanding actual or contingent obligation;
- (q) any Security arising by operation of law in respect of taxes being contested in good faith;
- (r) any Security required to be created by applicable law to secure claims of employees in respect of part-time work arrangements;
- (s) any rights of way, pre-emption rights, land charges of owners and similar rights relating to land or buildings and not securing Financial Indebtedness;
- (t) any Security granted by members of the Group incorporated in Sweden in favour of, and as required by, the Swedish PRI Pensionsgaranti;
- (u) any Security securing indebtedness, the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any member of the Group other than any permitted under the preceding paragraphs) does not exceed the higher of (i) EUR 50,000,000 (or its equivalent) and (ii) 15 per cent. of LTM EBITDA at any time; or
- (v) cash collateral (including, without limitation, cash in blocked accounts) to secure the obligations of any member of the Group arising under any letter of credit or similar instrument issued at the request of any such member of the Group.

**"Permitted Share Issue"** means an issue of:

- (a) New Equity;
- (b) shares by a member of the Group (other than Listco) which is a Subsidiary to its immediate Holding Company or to another member of the Group or to a minority shareholder proportionate to its existing holding where (if the existing shares of the Subsidiary are the subject of the Transaction Security) the newly issued shares (to the extent held by a member of the Group) also become subject to the Transaction Security on the same terms;
- (c) shares to a member of the Group pursuant to a Permitted Acquisition;
- (d) shares where the issue constitutes a Permitted Transaction; or
- (e) shares where the issuance is part of a Permitted Joint Venture.

**"Permitted Transaction"** means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security or Quasi-Security given, or other transaction arising under the Finance Documents;
- (b) the solvent liquidation or reorganisation of any member of the Group which is not an Obligor so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group;



- (c) unless an Event of Default is then outstanding, a reorganisation on a solvent basis of an Obligor (other than any Nomad Holdco or a Borrower) where:
  - (i) all of the business, assets or shares of that member remain within the Group and the value or percentage of any minority interest in any member of the Group held by any person which is not a member of the Group is not increased; and
  - (ii) if the assets or the shares in it were subject to the Transaction Security immediately prior to such reorganisation, the Lenders will enjoy (subject to the Security Principles, in the reasonable opinion of the Agent and supported by any professional opinions and reports as it reasonably requires) the same or equivalent guarantees from it (or its successor) and the same or equivalent Security over the same assets and over the shares in it (or, in each case, its successor) after the reorganisation;
- (d) transactions (other than the granting or creation of Security or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm's length terms;
- (e) any conversion of Intra-Group Loans into distributable reserves or registered share capital;
- (f) any acquisition by a member of the Group, or a loan to a trust or special purpose vehicle to fund the acquisition, of shares and loan notes of directors and employees whose appointment and/or contract is terminated;
- (g) the entry into of service and supply agreements with third party service providers in relation to the collection and settlement of outstanding customer invoices; or
- (h) unless an Event of Default is then outstanding, a reorganisation or merger on a solvent basis of any of Topco, Holdco or Finco with any of Topco, Holdco or Finco where:
  - (i) the surviving entity of such reorganisation or merger continues to hold, directly or indirectly, the entire issued share capital of Midco; and
  - (ii) the Lenders will enjoy (subject to the Security Principles, in the reasonable opinion of the Agent and supported by any professional opinions and reports as it reasonably requires): (x) the same or equivalent guarantees from the surviving entity of such reorganisation or merger after such reorganisation or merger as the Lenders did prior to such reorganisation or merger; and (y) Transaction Security over the same asset classes which were subject to Transaction Security immediately prior to such reorganisation or merger and, in particular, will enjoy Transaction Security over all of the shares of the surviving entity and all of the shares of Midco after such reorganisation or merger.

"**Qualifying Lender**" has the meaning given to that term in Clause 18.1 (*Definitions*).

"**Quarter Date**" means the last day of a Financial Quarter.

"**Quasi-Security**" has the meaning given to that term in Clause 27.12 (*Negative pledge*).

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined:



- (a) (if the currency is sterling) the first day of that period;
- (b) (if the currency is euro) two TARGET Days before the first day of that period; or
- (c) (for any other currency) two Business Days before the first day of that period,

unless market practice differs in the Relevant Interbank Market for a currency, in which case the Quotation Day for that currency will be determined by the Agent in accordance with market practice in the Relevant Interbank Market (and, if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days).

**"RCF Declared Default"** means a Financial Covenant Event of Default in respect of which a notice of acceleration has been served pursuant to paragraph (b) of Clause 28.16 (*Acceleration*).

**"RCF Drawings"** has the meaning given to such term in Clause 26.2 (*Financial condition*).

**"Real Property"** means:

- (a) any freehold, leasehold or immovable property; and
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property.

**"Receiver"** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

**"Reference Banks"** means, in relation to LIBOR or EURIBOR, the principal London offices of three commercial banks (each of which satisfy the ratings requirement set out in paragraph (b) of the definition of 'Acceptable Bank') as may be appointed by the Agent in consultation with Listco.

**"Regulation T", "Regulation U" or "Regulation X"** means Regulation T, U or X, as the case may be, of the Federal Reserve Board, as from time to time in effect and all official rulings and interpretations thereunder or thereof.

**"Related Fund"**, in relation to a trust, fund or other entity (the **"first fund"**), means another trust, fund or other entity which is:

- (a) managed or advised by the same investment manager or investment adviser as the first fund; or
- (b) managed or advised by an Affiliate of the investment manager or investment adviser of the first fund,

and in either case, has substantially the same investment criteria and objectives.

**"Relevant Interbank Market"** means, in relation to euro, the European interbank market and, in relation to any other currency, the London interbank market.

**"Relevant Jurisdiction"** means, in relation to an Obligor:

- (a) its jurisdiction of incorporation; and
- (b) where relevant, any jurisdiction whose laws govern any of the Transaction Security Documents entered into by it.



**"Relevant Period"** has the meaning given to that term in Clause 26.1 (*Financial definitions*).

**"Renewal Request"** means a written notice delivered to the Agent in accordance with Clause 6.6 (*Renewal of a Letter of Credit*).

**"Repeating Representations"** means each of the representations set out in Clause 24.2 (*Status*), Clause 24.3 (*Binding obligations*), Clause 24.4 (*Non-conflict with other obligations*), Clause 24.5 (*Power and authority*) and Clause 24.6 (*Validity and admissibility in evidence*).

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

**"Resignation Letter"** means a letter substantially in the form set out in Schedule 6 (*Form of Resignation Letter*) or any other form agreed by the Agent and Listco.

**"Restricted Party"** means any individual or entity that is:

- (a) listed on, or owned or controlled (as such terms, including any applicable ownership and control requirements, are defined and construed in applicable Sanctions laws and regulations or in any official guidance in relation to such Sanctions laws and regulations) by a person listed on, a Sanctions List;
- (b) a government of a Sanctioned Country;
- (c) an agency or instrumentality of, or an entity directly or indirectly owned or controlled by, a government of a Sanctioned Country;
- (d) resident or located in, operating from, or incorporated under the laws of, a Sanctioned Country;
- (e) to the best knowledge and belief of the Obligors (after due and careful enquiry), otherwise a target of Sanctions, or a person or entity whom it would be a breach of any applicable Sanctions for any Finance Party or any affiliate of a Finance Party to deal with; or
- (f) to the best knowledge and belief of the Obligors (after due and careful enquiry), acting on behalf of any of the persons or entities listed in paragraphs (a) to (e) above, for the purpose of evading or avoiding, or having the intended effect of evading or avoiding, or facilitating the evasion or avoidance of, any Sanctions.

**"Restructuring Expenditure"** means any expenditure incurred to finance or refinance costs and expenses related to restructuring (including, without limitation, relocations, redundancies, carve-outs and corporate reorganisations) or to refinance such expenditure (including the proceeds of utilisations of a Revolving Facility).

**"Retained Cash"** has the meaning given to that term in Clause 26.1 (*Financial definitions*).

**"Revolving Facility"** means the Original Revolving Facility and/or (as the context requires) any Additional Revolving Facility.

**"Revolving Facility Borrower"** means:

- (a) any Original Revolving Facility Borrower; and
- (b) any Additional Borrower under a Revolving Facility.



**"Revolving Facility Commitment"** means any Original Revolving Facility Commitment or Additional Facility Commitment in relation to an Additional Revolving Facility.

**"Revolving Facility Lender"** means a Lender which has a Revolving Facility Commitment.

**"Revolving Facility Loan"** means an Original Revolving Facility Loan or an Additional Facility Revolving Loan.

**"Revolving Facility Utilisation"** means a Revolving Facility Loan or a Letter of Credit.

**"Rollover Loan"** means one or more Revolving Facility Loans:

- (a) made or to be made on the same day that:
  - (i) a maturing Revolving Facility Loan is due to be repaid; or
  - (ii) a demand by the Agent pursuant to a drawing in respect of a Letter of Credit is due to be met;
- (b) the aggregate amount of which is equal to or less than the maturing Revolving Facility Loan or the relevant claim in respect of that Letter of Credit;
- (c) in the same currency as the maturing Revolving Facility Loan (unless it arose as a result of the operation of Clause 8.2 (*Unavailability of a currency*)) or the relevant claim in respect of that Letter of Credit; and
- (d) made or to be made to the same Borrower for the purpose of:
  - (i) refinancing that maturing Revolving Facility Loan;
  - (ii) satisfying the relevant claim in respect of that Letter of Credit; or
  - (iii) replacing an expiring Letter of Credit in an amount not greater than that expiring Letter of Credit.

**"Sanctions"** means applicable economic or financial sanctions or trade embargoes or other comprehensive prohibitions against transaction activity pursuant to anti-terrorism laws, export control laws or other laws or regulations imposed, administered, enacted or enforced from time to time by any Sanctions Authority.

**"Sanctioned Country"** means any country or other territory subject to a general export, import, financial or investment embargo under any Sanctions, which, as of the Closing Date, include Crimea (as defined and construed in the applicable Sanctions laws and regulations), Cuba, Iran, North Korea, Sudan and Syria.

**"Sanctions Authority"** means:

- (a) the United States;
- (b) the United Nations Security Council;
- (c) the European Union (or any of its member states);
- (d) the United Kingdom;
- (e) Switzerland;
- (f) Singapore;



- (g) Hong Kong or
- (h) the respective governmental institutions of any of the foregoing including, without limitation, Her Majesty's Treasury, the UK Department for Business, Innovation & Skills, the State Secretariat for Economic Affairs of Switzerland, the Swiss Directorate of Public International Law, the Office of Foreign Assets Control of the US Department of the Treasury, the US Department of Commerce, the US Department of State and any other agency of the US government.

**"Sanctions List"** means any of the lists of specifically designated nationals or designated or sanctioned individuals or entities (or equivalent) issued by any Sanctions Authority, each as amended, supplemented or substituted from time to time.

**"Screen Rate"** means:

- (a) in relation to LIBOR, the London interbank offered rate administered by the ICE Benchmark Administration Limited (or any other person that takes over administration of that rate) for the relevant currency and period as displayed (before any correction, recalculation or republication by the administrator) on pages LIBOR01 and LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate); and
- (b) in relation to EURIBOR, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period as displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate),

or (in each case) on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page(s) or service(s) cease to be available, the Agent may (in consultation with Listco) specify any other page or service displaying the relevant rate.

**"Second Lien Debt"** has the meaning given such term in the Intercreditor Agreement. **"Second Lien Debt Notes"** has the meaning given to such term in the Intercreditor Agreement.

**"Second Lien Debt Purchase"** means any repayment, prepayment, purchase, defeasance, redemption, acquisition or retirement (or any other transaction of similar effect) of Second Lien Debt Liabilities (as defined in the Intercreditor Agreement).

**"Secured Parties"** has the meaning given to such term in the Intercreditor Agreement.

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

**"Security Principles"** are the security principles set out in Schedule 12 (*Security Principles*).

**"Selection Notice"** means a notice substantially in the form set out in Part II of Schedule 3 (*Requests*) given in accordance with Clause 15 (*Interest Periods*) in relation to a Term Facility, or any other form agreed by the Agent and Listco.



**"Senior Secured Noteholders"** has the meaning given to that term in the Intercreditor Agreement.

**"Senior Secured Notes"** has the meaning given to such term in the Intercreditor Agreement.

**"Spanish Civil Procedural Law"** means Law 1/2000 of 7 January (*Ley de Enjuiciamiento Civil*), as amended from time to time.

**"Spanish Commercial Code"** means the Spanish Royal Legislative Decree dated 22 August 1885, approving the Spanish Commercial Code (*Código de Comercio*), as amended from time to time.

**"Spanish Companies Law"** means Spanish Royal Legislative Decree 1/2010, of 2 July, approving the Spanish Capital Companies Law (*Ley de Sociedades de Capital*), as amended from time to time.

**"Spanish Insolvency Law"** means Spanish Law 22/2003, of 9 July, on Insolvency (*Ley 22/2003, de 9 de julio, Concursal*), as amended from time to time.

**"Spanish Guarantor"** means a Guarantor incorporated in Spain.

**"Spanish Obligor"** means an Obligor incorporated in Spain.

**"Spanish Public Document"** means, a documento público, being either an escritura pública or a póliza or efecto intervenido por fedatario público.

**"Specified Time"** means a time determined in accordance with Schedule 9 (*Timetables*).

**"Structural Adjustment"** has the meaning given to such term in Clause 41.2 (*Exceptions*).

**"Subordinated Debt"** means any loans made to Listco which are subordinated to the Facilities pursuant to the Intercreditor Agreement and on the terms set out in the Intercreditor Agreement applying to "Subordinated Liabilities", including the accession of the relevant creditor to the terms of the Intercreditor Agreement as a "Subordinated Creditor".

**"Subordinated Liabilities"** has the meaning given to such term in the Intercreditor Agreement.

**"Subsidiary"** means, in relation to any company or corporation, a company or corporation:

- (a) which is controlled, directly or indirectly, by the first mentioned company or corporation;
- (b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first mentioned company or corporation; or
- (c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and, for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

**"Super Majority Lenders"** means a lender or lenders whose Commitments aggregate more than 90 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 90 per cent. of the Total Commitments immediately prior to that reduction).

**"Swedish Obligor"** means an Obligor incorporated in Sweden.



**"TARGET2"** means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

**"TARGET Day"** means any day on which TARGET2 is open for the settlement of payments in euro.

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

**"Term"** means each period determined under this Agreement for which the Issuing Bank is under a liability under a Letter of Credit.

**"Term Facility"** means Facility B3, Facility B4, Facility B5, Facility B6, Facility B7 or an Additional Term Facility.

**"Term Facility Borrower"** means:

- (a) any Original Term Facility Borrower; and
- (b) any Additional Borrower under the Term Facilities.

**"Term Loan"** means a Facility B3 Loan, Facility B4 Loan, Facility B5 Loan, Facility B6 Loan, Facility B7 Loan or an Additional Facility Term Loan.

**"Termination Date"** means:

- (a) in relation to Facility B3, 15 May 2024;
- (b) in relation to Facility B4, 15 May 2024;
- (c) in relation to Facility B5, the date referred to in paragraph (a) above;
- (d) in relation to Facility B6, the date referred to in paragraph (b) above;
- (e) in relation to Facility B7, the date referred to in paragraph (b) above;
- (f) in relation to the Revolving Facility, 15 May 2023; and
- (g) in relation to any Additional Facility, the date set out in the Additional Facility Notice relating to that Additional Facility.

**"Topco"** means Nomad Foods Europe Holdings Limited, a company incorporated in England and Wales with registered number 5879473.

**"Total Additional Facility Commitments"** means the aggregate of the Additional Facility Commitments (being zero on the 2018 Effective Date).

**"Total Assets"** means the total gross assets of the Group (calculated on a consolidated basis) as set out in the most recent financial statements delivered to the Agent pursuant to Clause 25.1 (*Financial Statements*), excluding any intangible assets and goodwill.

**"Total Commitments"** means the aggregate of the Total EUR Facility Commitments, Total US\$ Facility Commitments, Total Original Revolving Facility Commitments and Total Additional Facility Commitments.



**"Total EUR Facility Commitments"** means the aggregate of the Total Facility B3 Commitments and the Total Facility B5 Commitments.

**"Total Facility B3 Commitments"** means the aggregate of the Facility B3 Commitments (being, as at the December 2017 Additional Facility Effective Time, the aggregate amount of Facility B3 Commitments set out in the December 2017 Allocations Table).

**"Total Facility B4 Commitments"** means the aggregate of the Facility B4 Commitments (being, as at the December 2017 Additional Facility Effective Time, the aggregate amount of Facility B4 Commitments set out in the December 2017 Allocations Table).

**"Total Facility B5 Commitments"** means the aggregate of the Facility B5 Commitments (being, as at the December 2017 Additional Facility Effective Time, EUR58,000,000).

**"Total Facility B6 Commitments"** means the aggregate of the Facility B6 Commitments (being, as at the December 2017 Additional Facility Effective Time, US\$50,000,000).

**"Total Facility B7 Commitments"** means the aggregate of the Facility B7 Commitments (being, as at the 2018 Additional Facility Effective Time, US\$300,000,000).

**"Total Original Revolving Facility Commitments"** means the aggregate of the Original Revolving Facility Commitments (being, as at the April 2017 Effective Date, EUR 80,000,000).

**"Total Revolving Facility Commitments"** means the aggregate of the Total Original Revolving Facility Commitments and the Total Additional Facility Commitments with respect to Additional Revolving Facilities.

**"Total US\$ Facility Commitments"** means the aggregate of the Total Facility B4 Commitments, the Total Facility B6 Commitments and the Total Facility B7 Commitments.

**"Transaction Documents"** means the Finance Documents.

**"Transaction Security"** has the meaning given to that term in the Intercreditor Agreement.

**"Transaction Security Documents"** means any document described as a Transaction Security Document in:

- (a) schedule 2 (*Conditions Precedent*) of the April 2017 Amendment and Restatement Agreement; and/or
- (b) schedule 1 (*Conditions Precedent*) of the December 2017 Amendment and Restatement Agreement; and/or
- (c) schedule 2 (*Conditions Precedent and Conditions Subsequent*) to the Original Senior Facilities Agreement; and/or
- (d) Part I of Schedule 2 (*December 2017 Conditions Precedent and Conditions Subsequent*); and/or
- (e) Part II of Schedule 2 (*2018 Conditions Precedent and Conditions Subsequent*); and/or
- (f) the Intercreditor Agreement; and/or
- (g) any other document, instrument or agreement creating or evidencing or purporting to create or evidence Transaction Security.



**"Transfer Certificate and Lender Accession Undertaking"** means an agreement substantially in the form set out in Schedule 4 (*Form of Transfer Certificate and Lender Accession Undertaking*) or any other form agreed between the Agent and Listco.

**"Transfer Date"** means, in relation to an assignment or transfer, the later of:

- (a) the proposed Transfer Date specified in the Transfer Certificate and Lender Accession Undertaking; and
- (b) the date on which the Agent executes the Transfer Certificate and Lender Accession Undertaking.

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

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

**"US"** and **"United States"** means the United States of America, its territories and possessions.

**"USA Patriot Act"** means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 of the United States.

**"US Bankruptcy Law"** means the United States Bankruptcy Code of 1978 (Title 11 of the United States Code), any other United States federal or state bankruptcy, insolvency or similar law.

**"US Borrower"** means a Borrower that is organized, incorporated or formed under the laws of the United States or any State thereof (including the District of Columbia).

**"US Guarantor"** means a Guarantor that is organized, incorporated or formed under the laws of the United States or any State thereof (including the District of Columbia).

**"US Obligor"** means a US Borrower or a US Guarantor.

**"US Tax Obligor"** means:

- (i) a Borrower which is resident for tax purposes in the United States; or
- (ii) an Obligor some or all of whose payments under the Finance Documents are from sources within the United States for United States federal income tax purposes.

**"US\$ Denominated Facility"** means Facility B4, Facility B6, Facility B7 and any Additional Facility denominated in US\$.

**"Utilisation"** means a Loan or a Letter of Credit.

**"Utilisation Date"** means the date on which a Utilisation is made.

**"Utilisation Request"** means a notice substantially in the relevant form set out in Part IA or Part 1B of Schedule 3 (*Requests*) or any other form agreed by the Agent and Listco.

**"VAT"** means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and



- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

## 1.2 Construction

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

- (i) any "**Arranger**", the "**Agent**", any "**Finance Party**", any "**Issuing Bank**", any "**Lender**", any "**Obligor**", any "**Party**", the "**Security Agent**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
- (ii) a document in "**agreed form**" is a document which is agreed in writing by or on behalf of Listco and the Agent;
- (iii) "**assets**" includes present and future properties, revenues and rights of every description;
- (iv) the "**European interbank market**" means the interbank market for euro operating in Participating Member States;
- (v) a "**Finance Document**" or a "**Transaction Document**" or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated (however fundamentally);
- (vi) a "**guarantee**" means (other than in Clause 23 (*Guarantee and indemnity*)) any guarantee, letter of credit, bond, indemnity or similar assurance against loss;
- (vii) "**indebtedness**" includes any obligation (whether incurred as principal, guarantor, surety or otherwise) for the payment or repayment of money, whether present or future, or actual or contingent;
- (viii) "**law**" shall be construed as any law (including common or customary law), statute, constitution, decree, judgement, treaty, regulation, directive, by-law, order or any other legislative measure of any government, supranational, local government, statutory or regulatory body or court. Any reference in this Agreement to any "law" shall be construed as a reference to such measure as the same may have been or from time to time may be amended or, as the case may be, re-enacted;
- (ix) a Lender's "**participation**" in relation to a Letter of Credit shall be construed as a reference to the relevant amount that is or may be payable by a Lender in relation to that Letter of Credit;
- (x) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (xi) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, compliance with which is customary for entities or persons such as the relevant entity or person) of



any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

- (xii) a provision of law is a reference to that provision as amended or re-enacted; and
  - (xiii) a time of day is a reference to London time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
- (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (d) A Borrower providing "**cash cover**" for a Letter of Credit or an Ancillary Facility means a Borrower paying an amount in the currency of the Letter of Credit (or, as the case may be, Ancillary Facility) to an interest-bearing account in the name of the Borrower and the following conditions being met:
- (i) the account is with the Agent (if the cash cover is to be provided for all the Lenders) or with a Finance Party or Ancillary Lender (if the cash cover is to be provided for that Finance Party or Ancillary Lender);
  - (ii) until no amount is or may be outstanding under that Letter of Credit or Ancillary Facility, withdrawals from the account may only be made to pay a Finance Party amounts due and payable to it under this Agreement in respect of that Letter of Credit or Ancillary Facility; and
  - (iii) the Borrower has executed a security document over that account, in form and substance satisfactory to the Agent or the Finance Party or Ancillary Lender with which that account is held, creating a first ranking security interest over that account.
- (e) A default, Default, an Event of Default or a Financial Covenant Event of Default is "**continuing**" if it has not been remedied or waived.
- (f) In relation to any Financial Covenant Event of Default caused by the failure to meet the requirements of Clause 26.2 (*Financial condition*) on any Quarter Date but where the requirements of Clause 26.2 (*Financial condition*) are complied with on the next Quarter Date, then the Financial Covenant Event of Default caused by the failure to meet the requirements of Clause 26.2 (*Financial condition*) on the former Quarter Date shall be deemed remedied to the satisfaction of the Revolving Facility Lenders unless, prior to that next Quarter Date, the Agent or Revolving Facility Lenders have exercised any of their rights under paragraph (b) of Clause 28.16 (*Acceleration*).
- (g) A Borrower "**repaying**" or "**prepaying**" a Letter of Credit or Ancillary Outstandings means:
- (i) that Borrower providing cash cover for that Letter of Credit or in respect of the Ancillary Outstandings;
  - (ii) the maximum amount payable under the Letter of Credit or Ancillary Facility being reduced or cancelled; or
  - (iii) the Issuing Bank or Ancillary Lender being satisfied that it has no further liability under that Letter of Credit or Ancillary Facility,



and the amount by which a Letter of Credit is, or Ancillary Outstandings are, repaid or prepaid under paragraphs (i) and (ii) above is the amount of the relevant cash cover or reduction.

- (h) An amount borrowed includes any amount utilised by way of Letter of Credit or under an Ancillary Facility.
- (i) A Lender funding its participation in a Utilisation includes a Lender participating in a Letter of Credit.
- (j) An outstanding amount of a Letter of Credit at any time is the maximum amount that is or may be payable by the relevant Borrower in respect of that Letter of Credit at that time.
- (k) For the purposes of Clause 26.2 (*Financial condition*), '**drawn**' in relation to a Letter of Credit or bank guarantee shall be construed as a reference to the relevant amount being due and payable under or in relation to that Letter of Credit or bank guarantee (as applicable) and '**undrawn**' shall be construed accordingly.
- (l) In ascertaining the Majority Lenders or the Super Majority Lenders or whether any given percentage of the Total Commitments has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents or for the purpose of the allocation of any repayment or prepayment or for the purposes of taking any step, decision, direction or exercise of discretion which is calculated by reference to drawn amounts, any Commitments and/or participations in Utilisations not denominated in euro shall (as the context requires) be deemed to be converted into euro at the Agent's Spot Rate of Exchange.
- (m) Any buy-back by Listco of any issued shares in Listco or any redemption or repurchase by Listco of shares in Listco or any other reduction in the number of issued shares in Listco may, in each case, be made, to the extent constituting a Permitted Payment, in respect of any shares in Listco notwithstanding when those shares in Listco were first issued by it or (if those shares in Listco are redeemable shares) when those shares are expressed to be redeemable.

### 1.3 Belgian terms

In this Agreement, where it relates to any Belgian entity or Security, a reference to:

- (a) a "**liquidator**", "**receiver**", "**administrative receiver**", "**administrator**", "**compulsory manager**" or other similar officer includes any *curator/curateur, vereffenaar/liquidateur, voorlopig bewindvoerder/administrateur provisoire, gerechtelijk deskundige/expert judiciaire, mandataris ad hoc/mandataire ad hoc, ondernemingsbemiddelaar/médiateur d'entreprise*, as applicable, and *sekwester/séquestre*;
- (b) a "**Security**" includes any mortgage (*hypotheek/hypothèque*), pledge (*pand/nantissement*), any mandate to grant a mortgage, a pledge or any other real security (*mandaat/mandat*), privilege (*voorrecht/privilege*), reservation of title arrangement (*eigendomsvoorbehoud/réserve de propriété*), any real security (*zakelijke zekerheid/sûreté réelle*) and any transfer by way of security (*overdracht ten titel van zekerheid/transfert à titre de garantie*);
- (c) a person being "**unable to pay its debts**" is that person being in a state of cessation of payments (*staking van betaling/cessation de paiements*);



- (d) a "**suspension of payments**", "**moratorium of any indebtedness**" or "**reorganisation**" includes any *gerechtelijke reorganisatie/réorganisation judiciaire*, as applicable;
- (e) a "**composition**", "**compromise**", "**assignment**" or "**arrangement**" includes a *minnelijk akkoord met schuldeisers/accord amiable avec des créanciers*, or *gerechtelijke reorganisatie/réorganisation judiciaire*, as applicable;
- (f) "**winding up**", "**administration**" or "**dissolution**" includes any *vereffening/liquidation, ontbinding/dissolution, faillissement/faillite* and *sluiting van een onderneming/fermeture d'une entreprise*;
- (g) an "**attachment**", "**sequestration**", "**distress**", "**execution**" or "**analogous process**" includes any *uitvoerend beslag/saisie exécutoire* and *bewaerd beslag/saisie conservatoire*;
- (h) an "**amalgamation**", "**demerger**", "**merger**", "**consolidation**" or "**corporate reconstruction**" includes a *overdracht van algemeenheid/transfert d'universalité, overdracht van bedrijfstak/transfert de branche d'activité, splitsing/scission* and *fusie/fusion* and assimilated transaction in accordance with article 676 and 677 of the Belgian Companies Code (*gelijkgestelde verrichting/opération assimilée*);
- (i) "**gross negligence**" means "*zware fout/faute lourde*";
- (j) "**wilful misconduct**" or "**wilful breach**" means "*opzet/intention*";
- (k) "**constitutional documents**" means the deed of incorporation (*oprichtingsakte/ acte constitutive*), *statuten/statuts uittreksel van de Kruispuntbank voor Ondernemingen/extrait de la Banque Carrefour des Entreprises* and a non-bankruptcy certificate;
- (l) "**guarantee**" means, only for the purpose of the guarantee granted by any Belgian Guarantor under this Agreement, an independent guarantee and not a surety (*borg/cautionnement*); and
- (m) an Obligor being "**incorporated**" in Belgium or of which its "**jurisdiction of incorporation**" is Belgium, means that such Obligor has its principal place of business (*voornaamste vestiging/établissement principal* (within the meaning of the Belgian Law of 16 July 2004 on the conflicts of law code)) in Belgium.

#### 1.4 Italian terms

In this Agreement, where it relates to an Italian entity, a reference to:

- (a) a winding-up, administration or dissolution or the like includes, without limitation, any *scioglimento, liquidazione* and any other proceedings or legal concepts similar to the foregoing;
- (b) a receiver, administrative receiver, administrator or the like includes, without limitation, a *curatore, commissario giudiziale, commissario liquidatore, commissario straordinario, liquidatore*, or any other person performing the same function of each of the foregoing;
- (c) an insolvency proceeding includes, without limitation, any *procedura concorsuale* (including *fallimento, concordato preventivo, accordo di ristrutturazione dei debiti, liquidazione coatta amministrativa, amministrazione straordinaria* and *cessione dei beni*



*ai creditori* pursuant to Article 1977 of the Italian Civil Code) and any other proceedings or legal concepts similar to the foregoing;

- (d) a step or procedure taken in connection with insolvency proceedings in respect of any person includes such person formally making a proposal to assign its assets pursuant to Article 1977 of the Italian Civil Code (*cessione dei beni ai creditori*) or filing a petition for a *concordato preventivo*, *accordo di ristrutturazione dei debiti*, or entering into a similar arrangement for the majority of such person's creditors; and
- (e) an attachment includes a *pignoramento*.

### 1.5 Dutch terms

In this Agreement, where it relates to a Dutch entity, a reference to:

- (a) a necessary action to authorise where applicable, includes, without limitation:
  - (i) any action required to comply with the Dutch Works Councils Act (*Wet op de ondernemingsraden*); and
  - (ii) obtaining an unconditional positive advice (*advies*) from the competent works council(s);
- (b) a winding-up, administration or dissolution includes a Dutch entity being:
  - (i) declared bankrupt (*failliet verklaard*); or
  - (ii) dissolved (*ontbonden*);
- (c) a moratorium includes *surséance van betaling* and granted a moratorium includes (*voorlopige surséance verleend*);
- (d) a trustee in bankruptcy includes a *curator*;
- (e) an administrator includes a *bewindvoerder*;
- (f) a security right includes any mortgage (*hypotheek*), pledge (*pandrecht*), financial collateral agreement (*financiële zekerheidsvereenkomst*), retention of title arrangement (*eigendomsvoorbehoud*), right of retention (*recht van retentie*), right to reclaim goods (*recht van reclame*), and, in general, any right in rem (*beperkt recht*), created for the purpose of granting security (*goederenrechtelijke zekerheid*); and
- (g) a subsidiary includes a *dochtermaatschappij* as defined in Article 2:24a of the Dutch Civil Code;
- (h) a receiver or an administrative receiver does not include a *curator* or *bewindvoerder*; and
- (i) an attachment includes a *beslag*.

### 1.6 Spanish terms

In this Agreement, where it relates to a Spanish entity, a reference to:

- (a) "**financial assistance**" has the meaning stated under:
    - (i) Article 150 of the Spanish Companies Law for a Spanish public company (*Sociedad Anónima*) or in any other legal provision that may substitute such Article 150 or be applicable to any Spanish Obligor in respect of such financial assistance;
- or



- (ii) Article 143 of the Spanish Companies Law for a Spanish limited liability company (*Sociedad de Responsabilidad Limitada*) or in any other legal provision that may substitute such Article 143 or be applicable to any Spanish Obligor in respect of such financial assistance;
- (b) **"insolvency"** (*concurso* or any other equivalent legal proceeding) and any step or proceeding related to it has the meaning attributed to them under the Spanish Insolvency Law and **"insolvency proceeding"** includes, without limitation, a *declaración de concurso*, necessary or voluntary (*necesario o voluntario*) and the filing of the notice foreseen in Article 5 bis of the Spanish Insolvency Law;
- (c) **"winding-up, administration or dissolution"** includes, without limitation, *disolución*, *liquidación*, or *administración concursal* or any other similar proceedings;
- (d) **"compulsory manager", "receiver, administrative receiver, administrator"** or the like includes, without limitation, *administración del concurso* or any other person performing the same function;
- (e) "composition, compromise, assignment or arrangement with any creditor" includes, without limitation, the celebration of a *convenio*;
- (f) **"person being unable to pay its debts"** includes that person being in a state of *insolvencia or concurso*;
- (g) **"matured obligation"** includes, without limitation, any *crédito líquido, vencido y exigible*;  
**"guarantee"** includes any *garantía, aval* or guarantee which is independent from the debt to which it relates;
- (h) a grant, creation or transfer of a **"security"** includes any in rem or *garantía real* and any transfer by way of security;
- (i) **"security interest"** includes any mortgage (*hipoteca*), pledge (*prenda*), and, in general, any right in rem (*garantía real*) governed by Spanish law, created for the purpose of granting security.
- (j) **"trustee, fiduciary and fiduciary duty"** has in each case the meaning given to such term under any applicable law;
- (k) **"set off rights"** includes, to the extent legally possible, the rights to compensate under Royal Decree 5/2005; and
- (l) **"wilful misconduct"** includes *dolo*.

## 1.7 Swedish provisions

- (a) If any party to this agreement that is incorporated in Sweden (the **"Obligated Party"**) is required to hold an amount on trust on behalf of another party (the **"Beneficiary"**), the Obligated Party shall hold such money as agent for the Beneficiary on a separate account in accordance with the Swedish Act of 1944 in respect of assets held on account (Sw. *Lag (1944:181) om redovisningsmedel*) and shall promptly pay or transfer the same to the Beneficiary or as the Beneficiary may direct.



- (b) For the avoidance of doubt, the Parties agree that any novation effected in accordance with Clause 29 (*Changes to the Lenders*) shall, in relation to any Transaction Security governed by Swedish law, take effect as an assignment and assumption and transfer of such security interests.
- (c) Notwithstanding any other provisions in this Agreement or any other Finance Document, the sale, lease, transfer or disposal of assets subject to Transaction Security governed by Swedish law shall always be subject to the prior written consent of the Security Agent, such consent to be granted at the Security Agent's sole discretion on a case by case basis.

### 1.8 Luxembourg terms

In this Agreement:

- (a) Luxembourg legal concepts expressed in English terms in this Agreement may not correspond to the original French or German terms relating thereto;
- (b) where it relates to an Obligor incorporated in Luxembourg, a reference to:
  - (i) an inability to pay debts or discharge liabilities as they fall due, include, any *cessation de paiement* for the purpose of Luxembourg law;
  - (ii) a winding up, dissolution or administration includes a Luxembourg entity:
    - (A) being declared bankrupt (*faillite déclarée*);
    - (B) being subject to *liquidation judiciaire*; and
    - (C) having filed for controlled management (*gestion contrôlée*);
  - (iii) a moratorium includes a reprieve from payment (*sursis de paiement*) or a *concordat préventif de faillite*;
  - (iv) a trustee in bankruptcy includes a *curateur*;
  - (v) an administrator includes a *commissaire* or a *juge délégué*;
  - (vi) an attachment includes a *saisie*;
  - (vii) a lien or security interest includes any *hypothèque, nantissement, gage, privilege, sûreté réelle, droit de retention*, and any type of security in rem (*sûreté réelle*) or agreement or arrangement having similar effect and any transfer of title by way of security;
  - (viii) a "set-off" includes, for purposes of Luxembourg law, a legal set-off;
  - (ix) by-laws or constitutional documents includes its up-to-date (restated) articles of association (*statuts*); and
  - (x) a director includes a *gérant* or an *administrateur*.

### 1.9 Exchange rate fluctuations

- (a) Subject to paragraph (c) below, when assessing compliance with any monetary limits, thresholds, baskets and other exceptions to the representations and warranties, undertakings and Events of Defaults under the Finance Documents, any amount not denominated in the Base Currency shall be converted into an amount in the Base Currency at the rate (x) which Listco (acting reasonably and in good faith) has used and has notified to the Agent; or at the option of



Listco (y) using the Agent's Spot Rate of Exchange, in each case, as at the date of the Group incurring or making the relevant disposal, acquisition, investment, lease, loan, debt, security or guarantee or (as the case may be) taking the other relevant action.

- (b) Subject to paragraph (c) below, no Event of Default or breach of any representation and warranty or undertaking under this Agreement or the other Finance Documents shall arise as a result of a monetary limit, threshold, basket or exception being exceeded solely due to a change in the Base Currency equivalent of any amount in another currency due to fluctuations in exchange rates.
- (c) Paragraphs (a) and (b) above shall not apply to or in respect of the calculation of Debt Cover or for the purpose of testing any financial covenant.

#### **1.10 Currency symbols and definitions**

- (a) "**£**", "**Sterling**" and "**sterling**" denote the lawful currency of the United Kingdom, "**Euro**", "**euro**", "**€**" and "**EUR**" denote the single currency of the Participating Member States and "**US\$**" and "**US Dollars**" denote the lawful currency of the United States.
- (b) The "**equivalent**" in any currency (the "**first currency**") of any amount in another currency (the "**second currency**") shall be construed as a reference to the amount in the first currency which could be purchased with that amount in the second currency at the Agent's Spot Rate of Exchange (or at about such time and on such date as the Agent may from time to time reasonably determine to be appropriate in the circumstances).

#### **1.11 Third party rights**

- (a) 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 enjoy the benefit of any term of any Finance Document.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary any Finance Document at any time.

#### **1.12 Intercreditor Agreement**

- (a) This Agreement is subject to, and has the benefit of, the Intercreditor Agreement.
- (b) Terms used and not defined in this Agreement shall have the meaning given to them in the Intercreditor Agreement unless contrary indication appears in this Agreement.



**SECTION 2**  
**THE FACILITIES**

**2. THE FACILITIES**

**2.1 The Facilities**

- (a) Subject to the terms of this Agreement, the Lenders make available:
- (i) to Midco, a euro term loan facility in an aggregate amount equal to the Total Facility B3 Commitments;
  - (ii) to Luxco and the US Co-Borrower, a US\$ term loan facility in an aggregate amount equal to the Total Facility B4 Commitments;
  - (iii) to Midco, a euro term loan facility in an aggregate amount equal to the Total Facility B5 Commitments;
  - (iv) to Luxco and the US Co-Borrower, a US\$ term loan facility in an aggregate amount equal to the Total Facility B6 Commitments;
  - (v) to Luxco and the US Co-Borrower, a US\$ term loan facility in an aggregate amount equal to the Total Facility B7 Commitments; and
  - (vi) to the Revolving Facility Borrowers, a multicurrency revolving credit facility in an aggregate Base Currency Amount which is equal to the Total Original Revolving Facility Commitments.
- (b) Subject to the terms of this Agreement and the Ancillary Documents, an Ancillary Lender may make available an Ancillary Facility to any of the Borrowers.

**2.2 Finance Parties' rights and obligations**

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from an Obligor shall be a separate and independent debt.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

**2.3 Obligors' Agent**

- (a) Each Obligor (other than Listco) by its execution of this Agreement or an Accession Letter (as the case may be) irrevocably appoints Listco to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:
- (i) Listco on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions (including, in the case of a Borrower, Utilisation Requests), to execute on its behalf any Accession Letter, Additional Facility Notice or other Finance Document, to make such agreements and to effect the relevant amendments, supplements and variations capable of being



given, made or effected by any Obligor notwithstanding that they may affect the Obligor (including, without limitation, by increasing the obligations of such Obligor howsoever fundamentally, whether by increasing the liabilities guaranteed or otherwise), without further reference to or the consent of that Obligor; and

- (ii) each Finance Party to give any notice, demand or other communication to that Obligor pursuant to the Finance Documents to Listco,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions (including, without limitation, any Utilisation Requests) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Obligors' Agent or given to the Obligors' Agent under any Finance Document on behalf of another Obligor or in connection with any Finance Document (whether or not known to any other Obligor and whether occurring before or after such other Obligor became an Obligor under any Finance Document) shall be binding for all purposes on that Obligor as if that Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Obligors' Agent and any other Obligor, those of the Obligors' Agent shall prevail.
- (c) To the extent legally permissible, each of the Obligors hereby releases the Obligors' Agent from any restrictions on representing several persons and self-dealing under any applicable law, and in particular from the restrictions of Section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*), to make use of any authorisation granted under this Agreement and to perform its duties and obligations as Obligors' Agent hereunder and under or in connection with the Finance Documents.
- (d) In connection with the raising of any Finance Document into a Spanish Public Document, Listco shall act as the agent of each Obligor and is hereby authorised on behalf of each Obligor to enter into, enforce the rights of each Obligor under and represent each Obligor in respect of the granting of a Spanish Public Document.

#### **2.4 Additional Facilities**

- (a) Any member of the Group may enter into, and incur Financial Indebtedness under, any New Debt Financing (whether or not by way of an Additional Facility) in accordance with the terms of this Clause 2.4 and the Intercreditor Agreement.
- (b) Additional Facilities may become committed in accordance with this Clause 2.4 and subject to the terms of this Agreement if Listco delivers a duly completed Additional Facility Notice in the agreed form to the Agent signed by Listco and the provider of such Additional Facility in accordance with this Clause 2.4.
- (c) Listco may at any time or times notify the Agent by delivery of an Additional Facility Notice that it wishes to add one or more additional facilities into this Agreement, either as a new facility and/or as an additional tranche of any existing facility (each an "**Additional Facility**"). An Additional Facility may be made available by way of term or revolving facilities (including loans or letters of credit) or in the form of any of the following facilities:



- (i) an overdraft facility;
  - (ii) a guarantee, bonding, documentary or stand-by letter of credit facility;
  - (iii) a short-term loan facility;
  - (iv) a derivatives facility;
  - (v) a foreign exchange facility; or
  - (vi) any other facility or accommodation required in connection with the business of the Group and which is agreed by Listco with an Additional Facility Lender.
- (d) No consent of any Finance Party is required to establish a New Debt Financing (other than any Lender which is to provide the relevant New Debt Financing and the Agent (in each case, in the case of a New Debt Financing by way of an Additional Facility)) provided that, unless otherwise agreed by the Majority Lenders (or, in the case of paragraph (xi) below, all the Lenders):
- (i) any transaction funded with a New Debt Financing must be otherwise permitted under the Finance Documents;
  - (ii) no New Debt Financing may be provided by, or be beneficially owned by, a member of the Group or a Listco Affiliate;
  - (iii) in the case of a New Debt Financing by way of an Additional Facility, that Additional Facility must rank *pari passu* with, in right of payment and ranking of security, the other Facilities under the Finance Documents and must be established under, and included within, this Agreement and that Additional Facility may be denominated in euro, US Dollars, Sterling or any other currency agreed between Listco and the relevant Additional Facility Lenders;
  - (iv) the all-in yield applicable to any New Debt Financing in the form of a Credit Facility or a Pari Passu Debt Loan denominated in euro or US Dollars, (including, for the avoidance of doubt, any Additional Facility but excluding any bridge facility with an initial maturity of not more than one year (and provided that upon being converted into extended term loans, such extended term loans comply with the provisions of this paragraph (iv)) and customary interim facilities (established to fund a Permitted Acquisition on a certain funds basis)) does not exceed 0.50 per cent. per annum above the corresponding all-in yield of: (x) Facility B3 (with respect to any such New Debt Financing denominated in euro) or (y) Facility B4 (with respect to any such New Debt Financing denominated in US\$), unless the Margin on Facility B3 or Facility B4 (as the case may be) is increased so that the all-in yield for the applicable New Debt Financing does not exceed 0.50 per cent. per annum above the increased all-in yield for Facility B3 or Facility B4 (as the case may be); provided that, in determining the applicable all-in yield under this paragraph (iv):
    - (A) subject to paragraph (D) any original issue discount or upfront fee paid in connection with Facility B3 or Facility B4 (as the case may be and, in either case, based on a three-year average life to maturity or lesser remaining life to maturity) shall be included;



- (B) any amendments to the Margin on Facility B3 or Facility B4 (as the case may be) that became effective subsequent to the Closing Date but prior to the date of determination of the all-in yield shall be included;
  - (C) any EURIBOR or LIBOR rate floor applicable to the relevant New Debt Financing and/or to Facility B3 or Facility B4 (as the case may be) on the date of determination of the all-in yield shall be equated to interest margin for determining the applicable all-in yield by adding to the interest rate margin the amount by which the EURIBOR or (as applicable) the LIBOR rate then applicable (ignoring any floor to such rate) is less than the applicable floor rate; and
  - (D) arrangement, work, commitment, structuring, underwriting and/or any amendment fees paid or payable to the Arrangers (or their Affiliates) in their respective capacities as such in connection with Facility B3 or Facility B4 (as the case may be) or to one or more arrangers (or their Affiliates) in their respective capacities as such applicable to the relevant New Debt Financing shall be excluded to the extent such amounts are not shared generally with the syndicate lenders under that New Debt Financing;
- (v) other than in the case of a bridge facility with an initial maturity of not more than one year (and provided that upon being converted into extended term loans, such extended term loans comply with the provisions of this paragraph (v)) and customary interim facilities (established to fund a Permitted Acquisition on a certain funds basis), neither the final repayment date of any New Debt Financing nor any scheduled repayment instalment date (other than in respect of (X) any Additional Facility which is a revolving facility or (Y) a nominal 1 per cent. amortisation with respect to any New Debt Financing in the form of an Additional Facility, a Credit Facility or a Pari Passu Debt Loan denominated in US\$) may fall prior to the later to occur of the Termination Date for Facility B3 and the Termination Date for Facility B4 and, in relation to any Second Lien Debt, the date falling 6 months after the later to occur of the Termination Date for Facility B3 and the Termination Date for Facility B4;
  - (vi) no New Debt Financing shall have a right to receive prepayments in priority to the Original Facilities under paragraph (a) of Clause 12.3 (*Application of mandatory prepayments*);
  - (vii) the relevant creditor (or representative thereof) is a party to the Intercreditor Agreement in the relevant capacity including, in relation to a person which is to be a lender under an Additional Facility, if that person is not already a Lender it shall become party to the Intercreditor Agreement as a "Credit Facility Lender" prior to first utilisation of such Additional Facility;
  - (viii) in relation to any New Debt Financing by way of Senior Secured Notes, Pari Passu Debt Notes or Second Lien Debt Notes, the issuer is an 'Issuer' under and as defined in the Intercreditor Agreement and in relation to any Second Lien Debt Loan (as defined in the Intercreditor Agreement), the borrower is not a Subsidiary of Midco;



- (ix) either (x) utilisation or issue or (y), at Listco's option, in the case of a Permitted Acquisition to be funded by a New Debt Financing on a certain funds basis establishment (only) of any New Debt Financing for any transaction shall be subject to the conditions that:
  - (A) no Event of Default has occurred and is continuing at the time of a utilisation or issue or, (at Listco's option, in the case of a Permitted Acquisition to be funded by a New Debt Financing on a certain funds basis), establishment of that New Debt Financing and no Event of Default will occur as a direct result of making such utilisation or issuance or, (at Listco's option, in the case of a Permitted Acquisition to be funded by a New Debt Financing on a certain funds basis) establishing that New Debt Financing; and
  - (B) for the Relevant Period ending on the Quarter Date falling immediately prior to the date of utilisation or issuance or, (at Listco's option, in the case of a Permitted Acquisition to be funded by a New Debt Financing on a certain funds basis) establishment of such New Debt Financing, Debt Cover (calculated (x) *pro forma* as if that New Debt Financing had been drawn or issued in full at the beginning of such Relevant Period but taking into account, for the purposes of such calculation, the application of such New Debt Financing and, where such New Debt Financing is to be used to fund a Permitted Acquisition under paragraph (d) of that definition, calculated *pro forma* for such Permitted Acquisition as if such acquisition had occurred at the beginning of such Relevant Period and after taking into account any Pro Forma Adjustment in relation to such acquisition and for such Relevant Period; and (y) *pro forma* for any Permitted Payment in the period following such Quarter Date), does not exceed 5.25:1, in each case, as confirmed by a certificate from Listco containing the relevant calculations;
- (x) Listco delivers to the Agent before the date on which the relevant New Debt Financing is to be established:
  - (A) in the case of any New Debt Financing by way of an Additional Facility, a duly executed copy of each Additional Facility Document relating to the relevant Additional Facility; and
  - (B) a certification from Listco confirming that the foregoing conditions to the relevant New Debt Financing have been satisfied (save to the extent that a confirmation has been received from the Agent that these conditions have been waived by (x) each of the Additional Facility Lenders in the case of any New Debt Financing by way of an Additional Facility, and (y) the Majority Lenders); and
- (xi) no term of the New Debt Financing would otherwise require all Lender consent under Clause 41 (*Amendments and waivers*).
- (e) An Additional Facility Notice shall be irrevocable and no Additional Facility Notice will be regarded as having been duly completed unless it specifies the following matters in respect of the relevant Additional Facility:
  - (i) the proposed Borrower;



- (ii) the persons to become Additional Facility Lenders in respect of that Additional Facility;
- (iii) to the extent applicable to the relevant Additional Facility:
  - (A) the Base Currency Amount being made available and the currency or currencies in which that Additional Facility is available for utilisation;
  - (B) the rate of interest applicable to that Additional Facility (including any applicable Margin, EURIBOR or LIBOR floor and Margin ratchet);
  - (C) the Termination Date (together with, if applicable, any other scheduled repayment dates) for that Additional Facility;
  - (D) the Availability Period for that Additional Facility; and
  - (E) the Additional Facility Commencement Date for that Additional Facility.

An Additional Facility Notice must be delivered to the Agent no later than 3 Business Days prior to the Utilisation Date under that Additional Facility.

- (f) Subject to the conditions set out in paragraphs (a) to (e) above being satisfied, following receipt by the Agent of a duly completed Additional Facility Notice and with effect from the relevant Additional Facility Commencement Date (or any later date on which the conditions set out in paragraph (g) below are satisfied):
  - (i) the Lenders in respect of the relevant Additional Facility (each an "**Additional Facility Lender**") shall make available that Additional Facility in the aggregate principal amount set out in the Additional Facility Notice;
  - (ii) each of the Obligors and each such Additional Facility Lender shall assume obligations towards one another and/or acquire rights against one another as the Obligors and such Additional Facility Lenders would have assumed and/or acquired had the Additional Facility Lenders been Original Lenders;
  - (iii) each such Additional Facility Lender shall become a Party as a "Lender";
  - (iv) each such Additional Facility Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as those Additional Facility Lenders and those Finance Parties would have assumed and/or acquired had the Additional Facility Lenders been Original Lenders; and
  - (v) the Commitments of the other Lenders shall continue in full force and effect.
- (g) The establishment of an Additional Facility will only be effective on:
  - (i) receipt by the Agent of the Additional Facility Notice and a Lender Accession Notice from each person referred to in the relevant Additional Facility Notice as an Additional Facility Lender and Listco, provided that no Lender Accession Notice shall be required from any such person which is already a Party as a Lender; and
  - (ii) in relation to an Additional Facility Lender which is not already a Lender:
    - (A) that Additional Facility Lender entering into a Creditor/Agent Accession Undertaking (as defined in the Intercreditor Agreement); and



- (B) the performance by the Agent of all necessary "know your customer" or other similar identification checks under all applicable laws and regulations in relation to that Additional Facility Lender making available an Additional Facility, the completion of which the Agent shall promptly notify to Listco.
- (h) Each Obligor irrevocably authorises the Obligors' Agent to sign each Additional Facility Notice on its behalf and each Finance Party irrevocably authorises and instructs the Agent and the Security Agent to acknowledge, execute and confirm acceptance of each Additional Facility Notice, Lender Accession Notice and, if applicable, Creditor/Agent Accession Undertaking (as defined in the Intercreditor Agreement) on its behalf. Upon countersigning a duly completed Additional Facility Notice, the Agent shall inform the Lenders and shall provide a copy of each such executed Additional Facility Notice, Lender Accession Notice and, if applicable, Creditor/Agent Accession Undertaking (as defined in the Intercreditor Agreement) to the Lenders and Listco. To the extent legally possible, each Obligor hereby relieves the Obligors' Agent from the restrictions pursuant to section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and similar restrictions applicable to it pursuant to any other applicable law.
- (i) Without prejudice to clause 8 (*New Credit Facilities, Pari Passu Debt, Second Lien Debt and Hedging Agreements*) of the Intercreditor Agreement, the Finance Parties shall be required to enter into any amendment to or replacement of the then current Finance Documents (including for the purpose of reflecting the terms of any Additional Facility in the Finance Documents) and/or take such other action as is required by Listco in order to facilitate the establishment of any Additional Facility otherwise permitted by this Agreement, including in relation to any changes to, the taking of, or the release coupled with the retaking of, any guarantee or Security provided that, unless otherwise agreed by the Majority Lenders, neither the Agent nor the Security Agent shall be required to execute a release of assets from any existing Transaction Security or a release of any existing guarantee under Clause 23 (*Guarantee and indemnity*) pursuant to this paragraph (i) unless:
- (i) replacement security will (substantially contemporaneously with the relevant release) be provided pursuant to which the relevant Lenders (or the Security Agent on their behalf) will continue to have security in respect of the applicable assets or, as the case may be, a replacement guarantee will (substantially contemporaneously with the relevant release) be provided; and
- (ii) Listco has confirmed to the Security Agent that it has determined in good faith (taking into account any applicable legal limitations and other relevant considerations) that it is either not possible or not commercially practicable to implement such Additional Facility by granting new supplementary Transaction Security and/or amending the terms of the existing Transaction Security instead,

provided further that, for the avoidance of doubt, nothing in this paragraph will prohibit or restrict the execution of (or the right to require the execution of) any additional guarantee or Transaction Security Documents and/or any supplemental agreements, confirmations and/or any other similar or equivalent documents, provided that all such guarantees, security documents and/or supplemental agreements, confirmations and/or equivalent documents (as the case may be) are in favour of each of the Finance Parties (or the Agent or Security Agent on their behalf or for their benefit).



The Agent and the Security Agent are each irrevocably authorised and instructed by each Finance Party to execute any such amended or replacement Finance Documents as may be required pursuant to this paragraph (i) and/or take such action on behalf of the Finance Parties contemplated by this paragraph (i) (and shall do so on the request of and at the cost of Listco).

- (j) Except as provided in paragraph (d) above, the terms applicable, or which may be disappplied in relation to, any Additional Facility will be those agreed by the Additional Facility Lenders in respect of that Additional Facility and the Obligors' Agent (including, without limitation, any terms as to margin, margin protection, fees, prepayment and repayment). If there is any inconsistency between any such term agreed or disappplied in respect of an Additional Facility and any term of this Agreement, the term agreed in respect of the Additional Facility shall prevail (without prejudice to paragraph (d) above).
- (k) Each Additional Facility Lender, by executing a Lender Accession Notice, confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the relevant Additional Facility becomes effective.
- (l) Each Obligor confirms that its guarantee and indemnity obligations set out in Clause 23 (*Guarantee and indemnity*) and/or any Accession Letter or other Finance Document will extend to include the Additional Facility Loans and other obligations arising under the Additional Facilities subject to any limitations specifically set out in Clause 23 (*Guarantee and indemnity*), the relevant Accession Letter or elsewhere in the Finance Documents (and that the Transaction Security Documents shall be construed accordingly).

## 2.5 Redesignation of Facility B5 upon the Fungibility Date

In this Clause 2.5:

**"Facility B3 Lender"** shall mean a lender under Facility B3.

**"Facility B5 Lender"** shall mean a lender under Facility B5.

**"Fungibility Date"** shall be construed and interpreted so as to mean the date referred to in paragraph (a) of the definition of "Fungibility Date".

- (a) Upon the occurrence of the Fungibility Date:
  - (i) to the extent that any Facility B5 Lender is not at that time also a Facility B3 Lender, that Facility B5 Lender shall immediately and automatically become (and shall be deemed to be) a Facility B3 Lender with a Facility B3 Commitment of zero and a participation in the Facility B3 Loan outstanding at such time of zero (but, for the avoidance of doubt, without prejudice to any subsequent increase (or deemed increase), in such Facility B3 Commitment and such participation in the Facility B3 Loan pursuant to this Clause 2.5);
  - (ii) each Facility B5 Lender's Facility B5 Commitment at that time shall be immediately and automatically redesignated a Facility B3 Commitment and, following such redesignation, no Facility B5 Lender shall have any Facility B5 Commitment (and, following such redesignation, the Facility B5 Commitment of each Facility B5 Lender under Facility B5 shall be deemed to no longer exist);



- (iii) each Facility B3 Lender that was formerly a Facility B5 Lender agrees that its Facility B3 Commitment shall be (and shall be deemed to have been) increased immediately and automatically in an amount equal to the corresponding amount by which its Facility B5 Commitment shall have been (or deemed to have been) redesignated pursuant to paragraph (ii) above, and any reference in this Agreement to the "Facility B3 Commitment" of a Facility B3 Lender or the "Commitment" of that Lender under Facility B3 (or to the "Total Facility B3 Commitments") (or any similar or analogous definitions or phrases relating to that Lender and Facility B3) shall be interpreted and construed accordingly so as to include its (or the aggregate of all such) redesignated Facility B5 Commitment(s) (respectively);
  - (iv) each Facility B5 Lender's participation in the outstanding Facility B5 Loan at that time shall be immediately and automatically redesignated as a participation in the Facility B3 Loan outstanding at that time and, following such redesignation, no Lender shall have any participation in any Facility B5 Loan (and, following such redesignation, the Facility B5 Loan shall be deemed to no longer exist); and
  - (v) each Facility B3 Lender that was formerly a Facility B5 Lender agrees that its participation in the outstanding Facility B3 Loan at that time shall be immediately and automatically increased in an amount equal to the corresponding amount by which its participation in the outstanding Facility B5 Loan shall have been (or deemed to have been) redesignated pursuant to paragraph (iv) above, and any reference in this Agreement to the "participation" of that Facility B3 Lender in such Facility B3 Loan (or to such "Facility B3 Loan") shall be interpreted and construed accordingly so as to include its (or the aggregate of all such) redesignated Facility B5 Loan participation(s) (respectively).
- (b) Each Facility B3 Lender and the Borrower of the Facility B3 Loan agree and acknowledge that the Interest Period in respect of the Facility B3 Loan which is to commence on the Fungibility Date shall not be affected by this Clause 2.5 and that such Interest Period shall continue to be the Interest Period applicable to that Facility B3 Loan but as such Facility B3 Loan is (or is deemed to have been) increased on the Fungibility Date as a result of the operation of this Clause.
- (c) The Borrower of the Facility B3 Loan and the Facility B5 Loan agree:
- (i) that this Clause 2.5 shall not affect or operate to extinguish or reduce or in any way prejudice any interest that has accrued on the Facility B5 Loan but which was unpaid prior to its redesignation as part of the Facility B3 Loan pursuant to this Clause;
  - (ii) that this Clause 2.5 shall not affect or operate to extinguish or reduce or in any way prejudice any interest that has accrued on the Facility B3 Loan but which was unpaid prior to the redesignation of the Facility B5 Loan as part of the Facility B3 Loan pursuant to this Clause; and
  - (iii) that interest will accrue (and will continue to accrue) in accordance with the terms of this Agreement on the Facility B3 Loan as (or as deemed to have been) increased on the Fungibility Date as a result of the operation of this Clause,



and that all such interest shall be payable in accordance with the terms of this Agreement (including, as applicable, on the Fungibility Date) to the Agent for the account of:

- (A) (in the case of interest referred to in paragraph 2.5(c)(i) above) those Facility B3 Lenders that were Facility B5 Lenders immediately prior to the Fungibility Date and whose Facility B5 Commitments were redesignated as Facility B3 Commitments as a result of the operation of this Clause;
  - (B) (in the case of interest referred to in paragraph 2.5(c)(ii) above) those Facility B3 Lenders that were Facility B3 Lenders immediately prior to the Fungibility Date; and
  - (C) (in the case of interest referred to in paragraph 2.5(c)(iii) above) the Facility B3 Lenders at the time such interest is payable in accordance with the terms of this Agreement.
- (d) Each Obligor and each Finance Party acknowledge and agree to all of the matters referred to in this Clause 2.5 (and each Obligor and each Finance Party agrees that nothing referred to in this Clause 2.5 will prejudice any of their respective rights or affect any of their respective obligations under any Finance Document) and each Obligor and each Lender instructs the Agent (and the Agent shall) update its books and records on the Fungibility Date to take account of the matters referred to in this Clause 2.5 accordingly.

## **2.6 Redesignation of Facility B6 upon the Fungibility Date**

In this Clause 2.6:

**"Facility B4 Lender"** shall mean a lender under Facility B4.

**"Facility B6 Lender"** shall mean a lender under Facility B6.

**"Fungibility Date"** shall be construed and interpreted so as to mean the date referred to in paragraph (b) of the definition of "Fungibility Date".

- (a) Upon the occurrence of the Fungibility Date:
- (i) to the extent that any Facility B6 Lender is not at that time also a Facility B4 Lender, that Facility B6 Lender shall immediately and automatically become (and shall be deemed to be) a Facility B4 Lender with a Facility B4 Commitment of zero and a participation in the Facility B4 Loan outstanding at such time of zero (but, for the avoidance of doubt, without prejudice to any subsequent increase (or deemed increase), in such Facility B4 Commitment and such participation in the Facility B4 Loan pursuant to this Clause 2.6);
  - (ii) each Facility B6 Lender's Facility B6 Commitment at that time shall be immediately and automatically redesignated a Facility B4 Commitment and, following such redesignation, no Facility B6 Lender shall have any Facility B6 Commitment (and, following such redesignation, the Facility B6 Commitment of each Facility B6 Lender under Facility B6 shall be deemed to no longer exist);
  - (iii) each Facility B4 Lender that was formerly a Facility B6 Lender agrees that its Facility B4 Commitment shall be (and shall be deemed to have been) increased immediately and automatically in an amount equal to the corresponding amount by which its Facility B6 Commitment shall have been (or deemed to have been) redesignated pursuant to



paragraph (ii) above, and any reference in this Agreement to the "Facility B4 Commitment" of a Facility B4 Lender or the "Commitment" of that Lender under Facility B4 (or to the "Total Facility B4 Commitments") (or any similar or analogous definitions or phrases relating to that Lender and Facility B4) shall be interpreted and construed accordingly so as to include its (or the aggregate of all such) redesignated Facility B6 Commitment(s) (respectively);

- (iv) each Facility B6 Lender's participation in the outstanding Facility B6 Loan at that time shall be immediately and automatically redesignated as a participation in the Facility B4 Loan outstanding at that time and, following such redesignation, no Lender shall have any participation in any Facility B6 Loan (and, following such redesignation, the Facility B6 Loan shall be deemed to no longer exist); and
  - (v) each Facility B4 Lender that was formerly a Facility B6 Lender agrees that its participation in the outstanding Facility B4 Loan at that time shall be immediately and automatically increased in an amount equal to the corresponding amount by which its participation in the outstanding Facility B6 Loan shall have been (or deemed to have been) redesignated pursuant to paragraph (iv) above, and any reference in this Agreement to the "participation" of that Facility B4 Lender in such Facility B4 Loan (or to such "Facility B4 Loan") shall be interpreted and construed accordingly so as to include its (or the aggregate of all such) redesignated Facility B6 Loan participation(s) (respectively).
- (b) Each Facility B4 Lender and the Borrower of the Facility B4 Loan agree and acknowledge that the Interest Period in respect of the Facility B4 Loan which is to commence on the Fungibility Date shall not be affected by this Clause 2.6 and that such Interest Period shall continue to be the Interest Period applicable to that Facility B4 Loan but as such Facility B4 Loan is (or is deemed to have been) increased on the Fungibility Date as a result of the operation of this Clause.
- (c) The Borrower of the Facility B4 Loan and the Facility B6 Loan agree:
- (i) that this Clause 2.6 shall not affect or operate to extinguish or reduce or in any way prejudice any interest that has accrued on the Facility B6 Loan but which was unpaid prior to its redesignation as part of the Facility B4 Loan pursuant to this Clause;
  - (ii) that this Clause 2.6 shall not affect or operate to extinguish or reduce or in any way prejudice any interest that has accrued on the Facility B4 Loan but which was unpaid prior to the redesignation of the Facility B6 Loan as part of the Facility B4 Loan pursuant to this Clause; and
  - (iii) that interest will accrue (and will continue to accrue) in accordance with the terms of this Agreement on the Facility B4 Loan as (or as deemed to have been) increased on the Fungibility Date as a result of the operation of this Clause,

and that all such interest shall be payable in accordance with the terms of this Agreement (including, as applicable, on the Fungibility Date) to the Agent for the account of:

- (A) (in the case of interest referred to in paragraph 2.6(c)(i) above) those Facility B4 Lenders that were Facility B6 Lenders immediately prior to the Fungibility Date



and whose Facility B6 Commitments were redesignated as Facility B4 Commitments as a result of the operation of this Clause;

- (B) (in the case of interest referred to in paragraph 2.6(c)(ii) above) those Facility B4 Lenders that were Facility B4 Lenders immediately prior to the Fungibility Date; and
  - (C) (in the case of interest referred to in paragraph 2.6(c)(iii) above) the Facility B4 Lenders at the time such interest is payable in accordance with the terms of this Agreement.
- (d) Each Obligor and each Finance Party acknowledge and agree to all of the matters referred to in this Clause 2.6 (and each Obligor and each Finance Party agrees that nothing referred to in this Clause 2.6 will prejudice any of their respective rights or affect any of their respective obligations under any Finance Document) and each Obligor and each Lender instructs the Agent (and the Agent shall) update its books and records on the Fungibility Date to take account of the matters referred to in this Clause 2.6 accordingly.

## **2.7 Redesignation of Facility B7 upon the Facility B7 Fungibility Date**

In this Clause 2.7:

**"Facility B4 Lender"** shall mean a lender under Facility B4.

**"Facility B7 Lender"** shall mean a lender under Facility B7.

- (a) Upon the occurrence of the Facility B7 Fungibility Date:
  - (i) to the extent that any Facility B7 Lender is not at that time also a Facility B4 Lender, that Facility B7 Lender shall immediately and automatically become (and shall be deemed to be) a Facility B4 Lender with a Facility B4 Commitment of zero and a participation in the Facility B4 Loan outstanding at such time of zero (but, for the avoidance of doubt, without prejudice to any subsequent increase (or deemed increase), in such Facility B4 Commitment and such participation in the Facility B4 Loan pursuant to this Clause 2.7);
  - (ii) each Facility B7 Lender's Facility B7 Commitment at that time shall be immediately and automatically redesignated a Facility B4 Commitment and, following such redesignation, no Facility B7 Lender shall have any Facility B7 Commitment (and, following such redesignation, the Facility B7 Commitment of each Facility B7 Lender under Facility B7 shall be deemed to no longer exist);
  - (iii) each Facility B4 Lender that was formerly a Facility B7 Lender agrees that its Facility B4 Commitment shall be (and shall be deemed to have been) increased immediately and automatically in an amount equal to the corresponding amount by which its Facility B7 Commitment shall have been (or deemed to have been) redesignated pursuant to paragraph (ii) above, and any reference in this Agreement to the "Facility B4 Commitment" of a Facility B4 Lender or the "Commitment" of that Lender under Facility B4 (or to the "Total Facility B4 Commitments") (or any similar or analogous definitions or phrases relating to that Lender and Facility B4) shall be interpreted and construed accordingly so as to include its (or the aggregate of all such) redesignated Facility B7 Commitment(s) (respectively);



- (iv) each Facility B7 Lender's participation in the outstanding Facility B7 Loan at that time shall be immediately and automatically redesignated as a participation in the Facility B4 Loan outstanding at that time and, following such redesignation, no Lender shall have any participation in any Facility B7 Loan (and, following such redesignation, the Facility B7 Loan shall be deemed to no longer exist); and
  - (v) each Facility B4 Lender that was formerly a Facility B7 Lender agrees that its participation in the outstanding Facility B4 Loan at that time shall be immediately and automatically increased in an amount equal to the corresponding amount by which its participation in the outstanding Facility B7 Loan shall have been (or deemed to have been) redesignated pursuant to paragraph (iv) above, and any reference in this Agreement to the "participation" of that Facility B4 Lender in such Facility B4 Loan (or to such "Facility B4 Loan") shall be interpreted and construed accordingly so as to include its (or the aggregate of all such) redesignated Facility B7 Loan participation(s) (respectively).
- (b) Each Facility B4 Lender and the Borrower of the Facility B4 Loan agree and acknowledge that the Interest Period in respect of the Facility B4 Loan which is to commence on the Facility B7 Fungibility Date shall not be affected by this Clause 2.7 and that such Interest Period shall continue to be the Interest Period applicable to that Facility B4 Loan but as such Facility B4 Loan is (or is deemed to have been) increased on the Facility B7 Fungibility Date as a result of the operation of this Clause.
- (c) The Borrower of the Facility B4 Loan and the Facility B7 Loan agree:
- (i) that this Clause 2.7 shall not affect or operate to extinguish or reduce or in any way prejudice any interest that has accrued on the Facility B7 Loan but which was unpaid prior to its redesignation as part of the Facility B4 Loan pursuant to this Clause;
  - (ii) that this Clause 2.7 shall not affect or operate to extinguish or reduce or in any way prejudice any interest that has accrued on the Facility B4 Loan but which was unpaid prior to the redesignation of the Facility B7 Loan as part of the Facility B4 Loan pursuant to this Clause; and
  - (iii) that interest will accrue (and will continue to accrue) in accordance with the terms of this Agreement on the Facility B4 Loan as (or as deemed to have been) increased on the Facility B7 Fungibility Date as a result of the operation of this Clause,

and that all such interest shall be payable in accordance with the terms of this Agreement (including, as applicable, on the Facility B7 Fungibility Date) to the Agent for the account of:

- (A) (in the case of interest referred to in paragraph 2.7(c)(i) above) those Facility B4 Lenders that were Facility B7 Lenders immediately prior to the Facility B7 Fungibility Date and whose Facility B7 Commitments were redesignated as Facility B4 Commitments as a result of the operation of this Clause;
- (B) (in the case of interest referred to in paragraph 2.7(c)(ii) above) those Facility B4 Lenders that were Facility B4 Lenders immediately prior to the Facility B7 Fungibility Date; and



- (C) (in the case of interest referred to in paragraph 2.7(c)(iii) above) the Facility B4 Lenders at the time such interest is payable in accordance with the terms of this Agreement.
- (d) Each Obligor and each Finance Party acknowledge and agree to all of the matters referred to in this Clause 2.7 (and each Obligor and each Finance Party agrees that nothing referred to in this Clause 2.7 will prejudice any of their respective rights or affect any of their respective obligations under any Finance Document) and each Obligor and each Lender instructs the Agent (and the Agent shall) update its books and records on the Facility B7 Fungibility Date to take account of the matters referred to in this Clause 2.7 accordingly.
- (e) On the Facility B7 Fungibility Date, Listco shall provide the Agent a certificate confirming the amount of outstanding Loans under each Term Facility.

### **3. PURPOSE**

#### **3.1 Purpose**

- (a) The Borrower of Facility B3 and Facility B4 shall apply all amounts under those Facilities towards refinancing indebtedness and paying any related fees, costs and expenses, in each case, in accordance with the December 2017 Amendment and Restatement Agreement.
- (b) The Borrower of Facility B5, Facility B6 and Facility B7 shall apply all amounts borrowed by it under each Facility B5, Facility B6 and Facility B7 for the general corporate purposes of the Group.
- (c) Each Revolving Facility Borrower shall apply all amounts borrowed by it under a Revolving Facility, any Letter of Credit and any utilisation of any Ancillary Facility towards:
  - (i) the general corporate purposes of the Group (including to fund Restructuring Expenditure); and
  - (ii) the provision of cash collateral pursuant to paragraph (v) of Permitted Security,

**provided that** a maximum aggregate amount of EUR 75,000,000 may be drawn over the life of the Original Revolving Facility to fund Restructuring Expenditure.

- (d) The Borrower of any Additional Facility shall, subject to the terms of this Agreement, apply all utilisations under that Facility in a manner permitted by this Agreement and the Additional Facility Documents relevant to that Additional Facility.

#### **3.2 Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

### **4. CONDITIONS OF UTILISATION**

#### **4.1 Conditions precedent**

- (a) The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in respect of a Utilisation under Facility B3, Facility B4, Facility B5 and/or Facility B6, if on or before the Utilisation Date for that Utilisation, the Agent has received (or, acting on the instructions of the Arrangers, has waived the requirement to receive) all of the documents and other evidence



listed in schedule 2 (*Conditions Precedent*) of the December 2017 Amendment and Restatement Agreement in form and substance satisfactory to the Agent (acting reasonably).

- (b) The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in respect of a Utilisation under Facility B7 if on or before the Utilisation Date for that Utilisation, the Agent has received (or, acting on the instructions of the Arrangers, has waived the requirement to receive) all of the documents and other evidence listed in schedule 2 (*Conditions Precedent*) of the 2018 Amendment and Restatement Agreement in form and substance satisfactory to the Agent (acting reasonably).
- (c) The Agent shall notify Listco and the Lenders promptly upon being satisfied as to the condition in paragraph (a) above. Other than to the extent that the Majority Lenders notify the Agent in writing to the contrary before the Agent gives the notification as described in this paragraph, the Lenders authorise (but do not require) the Agent to give that notification. The Agent shall not be liable for any damages, costs or losses whatsoever as a result of giving any such notification.
- (d) Subject to this Clause 4.1, the Lenders will only be obliged to comply with 5.4 (*Lenders' participation*) in relation to a Utilisation if on the date of the Utilisation Request and on the proposed Utilisation Date:
  - (i) in the case of a Rollover Loan, no notice of acceleration or cancellation has been given pursuant to Clause 28.16 (*Acceleration*) as a result of the occurrence of an Event of Default; and
  - (ii) in the case of any other Utilisation:
    - (A) no Default is continuing or would result from the proposed Utilisation; and
    - (B) in the case of any Utilisation to be made on the Closing Date, on the date of the Utilisation Request and on the proposed Utilisation Date, each of the representations and warranties set out in Clause 24 (*Representations*) are true and accurate and, in the case of any other any Utilisation, the Repeating Representations are true and accurate (in all material respects in the case of Repeating Representations to which a materiality test is not already applied in accordance with their terms).

#### **4.2 Conditions relating to Optional Currencies**

- (a) A currency will constitute an Optional Currency in relation to a Revolving Facility Utilisation if it is:
  - (i) in the case of the Original Revolving Facility, sterling or US\$;
  - (ii) in the case of an Additional Revolving Facility, any currencies specified in the Additional Facility Notice relating to that Additional Revolving Facility; or
  - (iii) any other currency which is readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market at the Specified Time or, if later, on the date the Agent receives the relevant Utilisation Request and the Utilisation Date for that Utilisation and which has been approved by the Agent (acting on the instructions of all the Lenders participating in the relevant Revolving Facility acting reasonably) on or prior to receipt by the Agent of the relevant Utilisation Request for that Utilisation.



- (b) If the Agent has received a written request from Listco for a currency to be approved under paragraph (a)(iii) above, the Agent will confirm to Listco by the Specified Time:
  - (i) whether or not the Lenders have granted their approval; and
  - (ii) if approval has been granted, the minimum amount (approximately equivalent to the minimum amount for a Utilisation in the Base Currency) for any subsequent Utilisation in that currency.

#### **4.3 Maximum number of Utilisations**

- (a) A Borrower (or Listco) may not deliver a Utilisation Request if, as a result of the proposed Utilisation:
  - (i) 30 or more Revolving Facility Loans;
  - (ii) more than 1 Facility B3 Loan;
  - (iii) more than 1 Facility B4 Loan;
  - (iv) more than 1 Facility B5 Loan;
  - (v) more than 1 Facility B6 Loan;
  - (vi) more than 1 Facility B7 Loan; or
  - (vii) more than 15 Additional Facility Loans,would be outstanding (unless otherwise agreed by Listco and the Agent).
- (b) A Borrower (or Listco) may not request that a Facility B3 Loan, Facility B4 Loan, Facility B5 Loan, Facility B6 Loan, Facility B7 Loan or an Additional Facility Term Loan be divided.
- (c) Any Loan made by a single Lender under Clause 8.2 (*Unavailability of a currency*) shall not be taken into account in this Clause 4.3.
- (d) A Borrower (or Listco) may not request that a Letter of Credit be issued under the Revolving Facility if, as a result of the proposed Utilisation, more than 16 Letters of Credit would be outstanding.



**SECTION 3**  
**UTILISATION**

**5. UTILISATION - LOANS**

**5.1 Delivery of a Utilisation Request**

A Borrower (or Listco on its behalf) may utilise a Facility by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

**5.2 Completion of a Utilisation Request for Loans**

- (a) Each Utilisation Request for a Loan is irrevocable and will not be regarded as having been duly completed unless:
- (i) it identifies the Facility to be utilised;
  - (ii) to the extent applicable, the requirements of paragraph (f) of Clause 26.3 (*Financial testing*) are satisfied;
  - (iii) the proposed Utilisation Date is a Business Day within the Availability Period applicable to that Facility;
  - (iv) the currency and amount of the Utilisation comply with Clause 5.3 (*Currency and amount*); and
  - (v) the proposed Interest Period complies with Clause 15 (*Interest Periods*).
- (b) Multiple Utilisations may be requested in a Utilisation Request where the proposed Utilisation Date is the Closing Date. Only one Utilisation may be requested in each subsequent Utilisation Request.
- (c) There shall be no requirement to comply with the requirements of Clause 5.1 (*Delivery of a Utilisation Request*) and the other paragraphs of this Clause 5.2 in respect of Utilisations under Facility B3 and Facility B4 as at the December 2017 Additional Facility Effective Time and each such Facility shall be automatically utilised upon the occurrence of the December 2017 Additional Facility Effective Time to the extent provided for, and in accordance with the terms of, the December 2017 Amendment and Restatement Agreement.
- 5.3 Currency and amount**
- (a) The currency specified in a Utilisation Request must be:
- (i) in relation to Facility B3 or Facility B5, in euro;
  - (ii) in relation to Facility B4, Facility B6 or Facility B7, in US\$;
  - (iii) in relation to the Revolving Facility, in the Base Currency or an Optional Currency; and
  - (iv) in relation to a relevant Additional Facility, as specified in the Additional Facility Documents relating to that Additional Facility.
- (b) The amount of the proposed Utilisation must be in an amount the Base Currency Amount of which does not exceed the relevant Available Facility and must also be:
- (i) for Facility B3, the Total Facility B3 Commitments;
  - (ii) for Facility B4, the Total Facility B4 Commitments;



- (iii) for Facility B5, the Total Facility B5 Commitments;
- (iv) for Facility B6, the Total Facility B6 Commitments;
- (v) for Facility B7, the Total Facility B7 Commitments;
- (vi) for the Original Revolving Facility:
  - (A) if the currency selected is the Base Currency, a minimum of EUR 1,000,000 or, if less, the Available Facility;
  - (B) if the currency selected is sterling, a minimum of £750,000 or, if less, the Available Facility; or
  - (C) if the currency selected is an Optional Currency, the minimum amount specified by the Agent pursuant to paragraph (b)(ii) of Clause 4.2 (*Conditions relating to Optional Currencies*) or, if less, the Available Facility; or
- (vii) in relation to the relevant Additional Facility, as specified in the Additional Facility Documents relating to that Additional Facility.

#### **5.4 Lenders' participation**

- (a) If the conditions set out in this Agreement have been met, each Lender shall (subject to paragraph (d) below) make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (b) Subject to paragraph (d) below), the amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
- (c) The Agent shall determine the Base Currency Amount of each Revolving Facility Loan which is to be made in an Optional Currency and notify each Lender of the amount, currency and the Base Currency Amount of each Loan and the amount of its participation in that Loan by the Specified Time.
- (d) Each Lender under Facility B3 shall make its participation in any Facility B3 Loan to be made upon the occurrence of the December 2017 Additional Facility Effective Time available in accordance with the terms of the December 2017 Amendment and Restatement Agreement.
- (e) Each Lender under Facility B4 shall make its participation in any Facility B4 Loan to be made upon the occurrence of the December 2017 Additional Facility Effective Time available in accordance with the terms of the December 2017 Amendment and Restatement Agreement.

#### **5.5 Limitations on Utilisations**

- (a) No Facility B3 Loan or Facility B4 Loan shall be made unless Loans under each of those Facilities are made at the same time and each of Facility B3 and Facility B4 are utilised in full.
- (b) No Facility B5 Loan or Facility B6 Loan shall be made unless each of Facility B3 and Facility B4 have been (or will be, contemporaneously with the relevant Facility B5 and/or Facility B6 utilisation) utilised in full.
- (c) The maximum aggregate:
  - (i) Base Currency Amount of all Letters of Credit; and



- (ii) the amount of the Ancillary Commitments of all the Lenders, together shall not at any time exceed EUR 50,000,000.

## **6. UTILISATION - LETTERS OF CREDIT**

### **6.1 Revolving Facility**

- (a) A Revolving Facility may be utilised by way of Letters of Credit.
- (b) Other than Clause 5.5 (*Limitations on Utilisations*), Clause 5 (*Utilisation - Loans*) does not apply to Utilisations by way of Letters of Credit.

### **6.2 Delivery of a Utilisation Request for Letters of Credit**

A Revolving Facility Borrower (or Listco on its behalf) may request a Letter of Credit to be issued by delivery to the Agent of a duly completed Utilisation Request not later than the Specified Time.

### **6.3 Completion of a Utilisation Request for Letters of Credit**

Each Utilisation Request for a Letter of Credit is irrevocable and will not be regarded as having been duly completed unless:

- (a) it specifies that it is for a Letter of Credit;
- (b) it identifies whether the Letter of Credit is to be made under the Original Revolving Facility or under an Additional Revolving Facility;
- (c) it identifies the Revolving Facility Borrower of the Letter of Credit;
- (d) it identifies the Issuing Bank which is to issue the Letter of Credit;
- (e) the proposed Utilisation Date is a Business Day within the Availability Period applicable to the relevant Revolving Facility;
- (f) the currency and amount of the Letter of Credit comply with Clause 6.4 (*Currency and amount*);
- (g) the form of Letter of Credit is attached and is agreed with the Issuing Bank or is in the form set out in Schedule 10 (*Form of Letter of Credit*);
- (h) the delivery instructions for the Letter of Credit are specified;
- (i) the Term of the Letter of Credit is specified;
- (j) the beneficiary of the Letter of Credit is a person which the Issuing Bank and each Lender are not prohibited from dealing with by any applicable law or regulation; and
- (k) to the extent applicable, the requirements of paragraph (f) of Clause 26.3 (*Financial testing*) are satisfied.

### **6.4 Currency and amount**

- (a) The currency specified in a Utilisation Request must be the Base Currency or an Optional Currency.
- (b) Subject to paragraph (a) of Clause 5.5 (*Limitations on Utilisations*), the amount of the proposed Letter of Credit must be an amount whose Base Currency Amount is not more than the Available Facility and which is:



- (i) if the currency selected is euro, a minimum of EUR 1,000,000 or, if less, the Available Facility;
- (ii) if the currency selected is sterling, a minimum of £750,000 or, if less, the Available Facility;  
or
- (iii) if the currency selected is an Optional Currency (other than sterling), the minimum amount specified by the Agent pursuant to paragraph (b)(ii) of Clause 4.2 (*Conditions relating to Optional Currencies*) or, if less, the Available Facility.

#### **6.5 Issue of Letters of Credit**

- (a) If the conditions set out in this Agreement have been met, the Issuing Bank shall issue the Letter of Credit on the Utilisation Date.
- (b) Subject to paragraph (a)(i) of Clause 4.1 (*Conditions precedent*), the Issuing Bank will only be obliged to comply with paragraph (a) above if on the date of the Utilisation Request or Renewal Request and on the proposed Utilisation Date:
  - (i) in the case of a Letter of Credit to be renewed in accordance with Clause 6.6 (*Renewal of a Letter of Credit*), no notice of acceleration or cancellation has been given pursuant to Clause 28.16 (*Acceleration*) as a result of the occurrence of an Event of Default and, in the case of any other Utilisation, no Default is continuing or would result from the proposed Utilisation;
  - (ii) in relation to a Utilisation to be made on the Closing Date, on the date of the Utilisation Request, each of the representations and warranties set out in Clause 24 (*Representations*) are true and accurate;
  - (iii) in relation to any other Utilisation, on the date of the Utilisation Request and on the proposed Utilisation Date, the Repeating Representations that are stipulated to be made by each Obligor on the date of the Utilisation Request and on the proposed Utilisation Date are true and accurate (in all material respects in the case of Repeating Representations to which a materiality test is not already applied in accordance with their terms); and
  - (iv) it would not be unlawful for the Issuing Bank to issue the Letter of Credit.
- (c) The amount of each Lender's participation in each Letter of Credit will be equal to the proportion borne by its Available Commitment to the Available Facility (in each case in relation to the relevant Revolving Facility) immediately prior to the issue of the Letter of Credit.
- (d) The Agent shall determine the Base Currency Amount of each Letter of Credit which is to be issued in an Optional Currency and shall notify the Issuing Bank and each Lender of the details of the requested Letter of Credit and its participation in that Letter of Credit by the Specified Time.

#### **6.6 Renewal of a Letter of Credit**

- (a) A Revolving Facility Borrower (or Listco on its behalf) may request that any Letter of Credit issued on behalf of that Revolving Facility Borrower be renewed by delivery to the Agent of a Renewal Request in substantially similar form to a Utilisation Request for a Letter of Credit by the Specified Time.



- (b) The Finance Parties shall treat any Renewal Request in the same way as a Utilisation Request for a Letter of Credit, except that the conditions set out in paragraph (g) of Clause 6.3 (*Completion of a Utilisation Request for Letters of Credit*) shall not apply.
- (c) The terms of each renewed Letter of Credit shall be the same as those of the relevant Letter of Credit immediately prior to its renewal, except that:
  - (i) its amount may be less than the amount of the Letter of Credit immediately prior to its renewal; and
  - (ii) its Term shall start on the date which was the Expiry Date of the Letter of Credit immediately prior to its renewal, and shall end on the proposed Expiry Date specified in the Renewal Request.
- (d) If the conditions set out in this Agreement have been met, the Issuing Bank shall amend and re-issue any Letter of Credit pursuant to a Renewal Request.

#### **6.7 Revaluation of Letters of Credit**

- (a) If any Letters of Credit are denominated in an Optional Currency, the Agent shall, at annual intervals after the date of the respective Letter of Credit, recalculate the Base Currency Amount of each Letter of Credit by notionally converting into the Base Currency the outstanding amount of that Letter of Credit on the basis of the Agent's Spot Rate of Exchange on the date of calculation.
- (b) Listco shall, if requested by the Agent within five Business Days of any calculation under paragraph (a) above, ensure that within three Business Days sufficient Revolving Facility Utilisations are prepaid to prevent the Base Currency Amount of the Revolving Facility Utilisations exceeding the Total Revolving Facility Commitments (after deducting the total Ancillary Commitments) by more than 5 per cent. following any adjustment to a Base Currency Amount under paragraph (a) above.

#### **6.8 Cash cover**

If the Facilities are prepaid in full, or on the Termination Date for a Revolving Facility there are Letters of Credit outstanding under that Revolving Facility, Listco shall:

- (a) provide cash cover in an amount not exceeding the amount of each such Letter of Credit;
- (b) provide counter-indemnification by a financial institution approved by the Issuing Bank in respect of each such Letter of Credit; or
- (c) at the request of the Issuing Bank, use all reasonable endeavours to procure the release of the Issuing Bank from its obligations under each such Letter of Credit.

### **7. LETTERS OF CREDIT**

#### **7.1 Immediately payable**

If a Letter of Credit or any amount outstanding under a Letter of Credit is expressed to be immediately payable, the Borrower that requested (or on behalf of which Listco requested) the issue of that Letter of Credit shall repay or prepay that amount immediately.



## 7.2 Claims under a Letter of Credit

- (a) Each Revolving Facility Borrower irrevocably and unconditionally authorises the Issuing Bank to pay any claim made or purported to be made under a Letter of Credit requested by it (or requested by Listco on its behalf) and which appears on its face to be in order (in this Clause 7, a "claim").
- (b) Each Revolving Facility Borrower shall immediately on demand, or if such payment is being funded by a Revolving Facility Loan within three Business Days of demand, pay to the Agent for the Issuing Bank an amount equal to the amount of any claim.
- (c) Each Revolving Facility Borrower acknowledges that the Issuing Bank:
  - (i) is not obliged to carry out any investigation or seek any confirmation from any other person before paying a claim; and
  - (ii) deals in documents only and will not be concerned with the legality of a claim or any underlying transaction or any available set-off, counterclaim or other defence of any person.
- (d) The obligations of a Revolving Facility Borrower under this Clause 7.2 will not be affected by:
  - (i) the sufficiency, accuracy or genuineness of any claim or any other document; or
  - (ii) any incapacity of, or limitation on the powers of, any person signing a claim or other document.

## 7.3 Indemnities

- (a) Each Revolving Facility Borrower shall immediately on demand indemnify the Issuing Bank against any cost, loss or liability incurred by the Issuing Bank (otherwise than by reason of the Issuing Bank's gross negligence or wilful misconduct) in acting as the Issuing Bank under any Letter of Credit requested by (or on behalf of) that Revolving Facility Borrower.
- (b) Each Lender shall (according to its L/C Proportion) immediately on demand indemnify the Issuing Bank against any cost, loss or liability incurred by the Issuing Bank (otherwise than by reason of the Issuing Bank's gross negligence or wilful misconduct) in acting as the Issuing Bank under any Letter of Credit (unless the Issuing Bank has been reimbursed by an Obligor pursuant to a Finance Document).
- (c) If any Lender is not permitted (by its constitutional documents or any applicable law) to comply with paragraph (b) above, then that Lender will not be obliged to comply with paragraph (b) above and shall instead be deemed to have taken, on the date the Letter of Credit is issued (or, if later, on the date the Lender's participation in the Letter of Credit is transferred or assigned to the Lender in accordance with the terms of this Agreement), an undivided interest and participation in the Letter of Credit in an amount equal to its L/C Proportion of that Letter of Credit. On receipt of demand from the Agent, that Lender shall pay to the Agent (for the account of the Issuing Bank) an amount equal to its L/C Proportion of the amount demanded.
- (d) The Revolving Facility Borrower which requested (or on behalf of which Listco requested) a Letter of Credit shall immediately on demand reimburse any Lender for any payment it makes to the Issuing Bank under this Clause 7.3 in respect of that Letter of Credit.



- (e) The obligations of each Lender under this Clause 7 are continuing obligations and will extend to the ultimate balance of sums payable by that Lender in respect of any Letter of Credit, regardless of any intermediate payment or discharge in whole or in part.
- (f) The obligations of any Lender or Revolving Facility Borrower under this Clause 7 will not be affected by any act, omission, matter or thing which, but for this Clause 7, would reduce, release or prejudice any of its obligations under this Clause 7 (without limitation and whether or not known to it or any other person), including:
  - (i) any time, waiver or consent granted to, or composition with, any Obligor, any beneficiary under a Letter of Credit or any other person;
  - (ii) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor or any member of the Group;
  - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor, any beneficiary under a Letter of Credit 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;
  - (iv) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any beneficiary under a Letter of Credit or any other person;
  - (v) any amendment (however fundamental) or replacement of a Finance Document, any Letter of Credit (if made with the consent of Listco) or any other document or security;
  - (vi) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, any Letter of Credit or any other document or security; or
  - (vii) any insolvency or similar proceedings.

#### **7.4 Rights of contribution**

No Obligor will be entitled to any right of contribution or indemnity from any Finance Party in respect of any payment it may make under this Clause 7.

#### **7.5 Settlement conditional**

Any settlement or discharge between a Lender and the Issuing Bank shall be conditional upon no security or payment to the Issuing Bank by a Lender or any other person on behalf of a Lender being avoided or reduced by virtue of any laws relating to bankruptcy, insolvency, liquidation or similar laws of general application and, if any such security or payment is so avoided or reduced, the Issuing Bank shall be entitled to recover the value or amount of such security or payment from such Lender subsequently as if such settlement or discharge had not occurred.

#### **7.6 Exercise of rights**

The Issuing Bank shall not be obliged before exercising any of the rights, powers or remedies conferred upon it in respect of any Lender by this Agreement or by law:

- (a) to take any action or obtain judgment in any court against any Obligor;
- (b) to make or file any claim or proof in a winding-up or dissolution of any Obligor; or



- (c) to enforce or seek to enforce any other security taken in respect of any of the obligations of any Obligor under this Agreement.

## **8. OPTIONAL CURRENCIES**

### **8.1 Selection of currency**

A Revolving Facility Borrower (or Listco on its behalf) shall select the currency of a Revolving Facility Utilisation in a Utilisation Request.

### **8.2 Unavailability of a currency**

If before the Specified Time on any Quotation Day:

- (a) a Lender notifies the Agent that the Optional Currency requested is not readily available to it in the amount required; or
- (b) a Lender notifies the Agent that compliance with its obligation to participate in a Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Agent will give notice to the relevant Revolving Facility Borrower to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 8.2 will be required to participate in the Loan in the Base Currency (in an amount equal to that Lender's proportion of the Base Currency Amount or, in respect of a Rollover Loan, an amount equal to that Lender's proportion of the Base Currency Amount of the Rollover Loan that is due to be made) and its participation will be treated as a separate Loan denominated in the Base Currency during that Interest Period.

### **8.3 Agent's calculations**

Each Lender's participation in a Loan will be determined in accordance with paragraph (b) of Clause 5.4 (*Lenders' participation*).

## **9. ANCILLARY FACILITIES**

### **9.1 Type of Facility**

An Ancillary Facility may be by way of:

- (a) an overdraft facility;
- (b) a guarantee, bonding, documentary or stand-by letter of credit facility;
- (c) a short-term loan facility;
- (d) a derivatives facility;
- (e) a foreign exchange facility; or
- (f) any other facility or accommodation required in connection with the business of the Group and which is agreed by Listco with an Ancillary Lender.

### **9.2 Availability**

- (a) If Listco and a Lender agree and except as otherwise provided in this Agreement, the Lender may provide an Ancillary Facility on a bilateral basis in place of all or part of that Lender's unutilised Revolving Facility Commitment (which shall (except for the purpose of determining the Majority Lenders) be reduced by the amount of the Ancillary Commitment under that Ancillary Facility).



- (b) An Ancillary Facility shall not be made available unless, not later than three Business Days prior to the Ancillary Commencement Date for an Ancillary Facility, the Agent has received from Listco:
- (i) a notice in writing requesting the establishment of an Ancillary Facility and specifying:
    - (A) whether the Ancillary Facility is to be made under the Original Revolving Facility or under an Additional Revolving Facility;
    - (B) the proposed Revolving Facility Borrower(s) (or Affiliates of a Revolving Facility Borrower) which may use the Ancillary Facility;
    - (C) the proposed Ancillary Commencement Date and expiry date of the Ancillary Facility;
    - (D) the proposed type of Ancillary Facility to be provided;
    - (E) the proposed Ancillary Lender;
    - (F) the proposed Ancillary Commitment, the maximum amount of the Ancillary Facility (if not denominated in the Base Currency) and, if the Ancillary Facility is an overdraft facility comprising more than one account, its maximum gross amount (that amount being the "**Designated Gross Amount**") and its maximum net amount (that amount being the "**Designated Net Amount**"); and
    - (G) the proposed currency of the Ancillary Facility;
  - (ii) a copy of the proposed Ancillary Document; and
  - (iii) any other information which the Agent may reasonably request in connection with the Ancillary Facility.

The Agent shall promptly notify Listco, the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility.

No amendment or waiver of a term of any Ancillary Facility shall require the consent of any Finance Party other than the relevant Ancillary Lender.

- (c) Subject to compliance with paragraph (b) above:
- (i) the Lender concerned will become an Ancillary Lender; and
  - (ii) the Ancillary Facility will be available,
- with effect from the date agreed by Listco and the Ancillary Lender.

### 9.3 Terms of Ancillary Facilities

- (a) Except as provided below, the terms of any Ancillary Facility will be those agreed by the Ancillary Lender and Listco.
- (b) However, those terms:
- (i) must be based upon normal commercial terms at that time (except as varied by this Agreement);
  - (ii) may allow only Revolving Facility Borrowers (or Affiliates of Borrowers nominated pursuant to Clause 9.8 (*Affiliates of Borrowers*)) to use the Ancillary Facility;



- (iii) may not allow the Ancillary Outstandings to exceed the Ancillary Commitment;
  - (iv) may not allow the Ancillary Commitment of an Ancillary Lender to exceed the Available Commitment with respect to the relevant Revolving Facility of that Ancillary Lender (or that of its Affiliate); and
  - (v) must require that the Ancillary Commitment is reduced to nil, and that all Ancillary Outstandings are repaid (or cash cover provided in respect of all the Ancillary Outstandings) not later than the Termination Date for the relevant Revolving Facility.
- (c) If there is any inconsistency between any term of an Ancillary Facility and any term of this Agreement, this Agreement shall prevail, except for (i) Clause 38.3 (*Day count convention*) which shall not prevail for the purposes of calculating fees, interest or commission relating to an Ancillary Facility and (ii) an Ancillary Facility comprising more than one account where the terms of the Ancillary Documents shall prevail.
- (d) Interest, commission and fees on Ancillary Facilities are dealt with in Clause 17.5 (*Interest, commission and fees on Ancillary Facilities*).

#### **9.4 Repayment of Ancillary Facility**

- (a) An Ancillary Facility shall cease to be available on the Termination Date in relation to the relevant Revolving Facility or such earlier date on which its expiry date occurs or on which it is cancelled in accordance with the terms of this Agreement.
- (b) If an Ancillary Facility expires in accordance with its terms, the Ancillary Commitment of the Ancillary Lender shall be reduced to zero (and its unutilised Revolving Facility Commitment shall be increased accordingly).
- (c) No Ancillary Lender may demand repayment or prepayment of any amounts or demand cash cover for any liabilities made available or incurred by it under its Ancillary Facility (except where the Ancillary Facility is provided on a net limit basis to the extent required to bring any gross outstandings down to the net limit) unless:
- (i) the Total Revolving Facility Commitments have been cancelled in full, or all outstanding Utilisations under the relevant Revolving Facility have become due and payable in accordance with the terms of this Agreement, or the Agent has declared all outstanding Utilisations under the relevant Revolving Facility immediately due and payable, or the expiry date of the Ancillary Facility occurs;
  - (ii) it becomes unlawful in any applicable jurisdiction for the Ancillary Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in its Ancillary Facility; or
  - (iii) the Ancillary Outstandings (if any) under that Ancillary Facility can be refinanced by a Revolving Facility Utilisation under the relevant Revolving Facility and the Ancillary Lender gives sufficient notice to enable a Utilisation under the relevant Revolving Facility to be made to refinance those Ancillary Outstandings.
- (d) For the purposes of determining whether or not the Ancillary Outstandings under an Ancillary Facility mentioned in paragraph (c)(iii) above can be refinanced by a Utilisation under the relevant Revolving Facility:



- (i) the unutilised Revolving Facility Commitment of the Ancillary Lender will be increased by the amount of the respective Ancillary Commitment; and
  - (ii) the Utilisation may (so long as paragraph (c)(i) above does not apply) be made irrespective of whether a Default is outstanding or any other applicable condition precedent is not satisfied (but only to the extent that the proceeds are applied in refinancing those Ancillary Outstandings) and irrespective of whether Clause 4.3 (*Maximum number of Utilisations*) or paragraph (a)(iv) of Clause 5.2 (*Completion of a Utilisation Request for Loans*) applies.
- (e) On the making of a Utilisation under a Revolving Facility to refinance Ancillary Outstandings:
- (i) each Lender will participate in that Utilisation in an amount (as determined by the Agent) which will result as nearly as possible in the aggregate amount of its participation in the Revolving Facility Utilisations then outstanding bearing the same proportion to the aggregate amount of the Revolving Facility Utilisations then outstanding as its Revolving Facility Commitment bears to the Total Revolving Facility Commitments; and
  - (ii) the relevant Ancillary Facility shall be cancelled.
- (f) In relation to an Ancillary Facility which comprises an overdraft facility where a Designated Net Amount has been established, the Ancillary Lender providing that Ancillary Facility shall only be obliged to take into account for the purposes of calculating compliance with the Designated Net Amount those credit balances which it is permitted to take into account by the then current law and regulations in relation to its reporting of exposures to the Financial Conduct Authority as netted for capital adequacy purposes.

#### **9.5 Ancillary Outstandings**

Each Revolving Facility Borrower and each Ancillary Lender agrees with and for the benefit of each Lender that:

- (a) the Ancillary Outstandings under any Ancillary Facility provided by that Ancillary Lender shall not exceed the Ancillary Commitment applicable to that Ancillary Facility and, where the Ancillary Facility is an overdraft facility comprising more than one account, Ancillary Outstandings under that Ancillary Facility shall not exceed the Designated Net Amount in respect of that Ancillary Facility; and
- (b) where all or part of the Ancillary Facility is an overdraft facility comprising more than one account, the Ancillary Outstandings (calculated on the basis that the words in brackets in paragraph (a) of the definition of that term were deleted) shall not exceed the Designated Gross Amount applicable to that Ancillary Facility.

#### **9.6 Information**

Each Revolving Facility Borrower and each Ancillary Lender shall, promptly upon request by the Agent, supply the Agent with any information relating to the operation of an Ancillary Facility (including the Ancillary Outstandings) as the Agent may reasonably request from time to time. Each Revolving Facility Borrower consents to all such information being released to the Agent and the other Finance Parties.



### **9.7 Affiliates of Lenders as Ancillary Lenders**

- (a) Subject to the terms of this Agreement, an Affiliate of a Lender may become an Ancillary Lender. In such case, the Lender and its Affiliate shall be treated as a single Lender whose Revolving Facility Commitment is the amount set out opposite the relevant Lender's name in the April 2017 Allocations Table and/or the amount of any Revolving Facility Commitment transferred to or assumed by that Lender under this Agreement, to the extent (in each case) not cancelled, reduced or transferred by it under this Agreement. For the purposes of calculating the Lender's Available Commitment with respect to the Revolving Facility, the Lender's Commitment shall be reduced to the extent of the aggregate of the Ancillary Commitments of its Affiliates.
- (b) Listco shall specify any relevant Affiliate of a Lender in any notice delivered by Listco to the Agent pursuant to paragraph (b)(i) of Clause 9.2 (*Availability*).
- (c) An Affiliate of a Lender which becomes an Ancillary Lender shall accede to this Agreement and the Intercreditor Agreement by delivery to the Security Agent of a duly completed Creditor/Agent Accession Undertaking (as defined in the Intercreditor Agreement).
- (d) If a Lender assigns all of its rights and benefits or transfers all of its rights and obligations to a New Lender (as defined in Clause 29 (*Changes to the Lenders*)), its Affiliate shall cease to have any obligations under this Agreement or any Ancillary Document.
- (e) Where this Agreement or any other Finance Document imposes an obligation on an Ancillary Lender and the relevant Ancillary Lender is an Affiliate of a Lender which is not a party to that document, the relevant Lender shall ensure that the obligation is performed by its Affiliate.

### **9.8 Affiliates of Borrowers**

- (a) Subject to the terms of this Agreement, an Affiliate of a Revolving Facility Borrower may with the approval of the relevant Lender become a borrower with respect to an Ancillary Facility.
- (b) Listco shall specify any relevant Affiliate of a Revolving Facility Borrower in any notice delivered by Listco to the Agent pursuant to paragraph (b)(i) of Clause 9.2 (*Availability*).
- (c) If a Revolving Facility Borrower ceases to be a Borrower under this Agreement in accordance with Clause 31.3 (*Resignation of a Borrower*), its Affiliate shall cease to have any rights under this Agreement or any Ancillary Document (unless that Affiliate is also the Affiliate of another Borrower).
- (d) Where this Agreement or any other Finance Document imposes an obligation on a Borrower under an Ancillary Facility and the relevant Borrower is an Affiliate of a Revolving Facility Borrower which is not a party to that document, the relevant Borrower shall ensure that the obligation is performed by its Affiliate.
- (e) Any reference in this Agreement or any other Finance Document to a Borrower being under no obligations (whether actual or contingent) as a Borrower under such Finance Document shall be construed to include a reference to any Affiliate of a Revolving Facility Borrower being under no obligations under any Finance Document or Ancillary Document (unless that Affiliate is also the Affiliate of another Borrower).



## SECTION 4

### REPAYMENT, PREPAYMENT AND CANCELLATION

#### 10. REPAYMENT

##### 10.1 Repayment of Term Loans

- (a) The Borrower under Facility B3 shall repay the Facility B3 Loans in full on the Termination Date for Facility B3 in euro.
- (b) The Borrower under Facility B4 shall repay the outstanding aggregate Facility B4 Loans by (i) on 15 May 2018 and on each subsequent anniversary of such date, repaying an amount which reduces the Base Currency Amount of the outstanding aggregate Facility B4 Loans by an amount equal to 1.00 per cent of the aggregate of (A) all Facility B4 Loans outstanding as at the date referred to in paragraph (b) of the definition of "Fungibility Date" and (B) the amount of outstanding Facility B7 Loans as at the Facility B7 Fungibility Date, without any double counting; and (ii) on the Termination Date for Facility B4, repaying the remaining Facility B4 Loans in full.
- (c) The Borrower under Facility B5 shall repay the Facility B5 Loans in full on the Termination Date for Facility B5 in euro.
- (d) The Borrower under Facility B6 shall repay the Facility B6 Loans by (i) on 15 May 2018 and on each subsequent anniversary of such date, repaying an amount which reduces the Base Currency Amount of the outstanding aggregate Facility B6 Loans by an amount equal to 1.00 per cent of the aggregate of all Facility B6 Loans outstanding as at the last day of the Availability Period applicable to Facility B6; and (ii) on the Termination Date for Facility B6, repaying the remaining Facility B6 Loans in full.
- (e) The Borrower under Facility B7 shall repay the Facility B7 Loans by (i) on 15 May 2019 and on each subsequent anniversary of such date, repaying an amount which reduces the Base Currency Amount of the outstanding aggregate Facility B7 Loans by an amount equal to 1.00 per cent of the aggregate of all Facility B7 Loans outstanding as at the last day of the Availability Period applicable to Facility B7; and (ii) on the Termination Date for Facility B7, repaying the remaining Facility B7 Loans in full.
- (f) The Borrower(s) in relation to each Additional Facility shall repay (or procure the repayment of) any amounts owing under that Facility in the manner specified in the Additional Facility Documents relating to that Additional Facility.
- (g) The Borrowers may not reborrow any part of a Term Facility which is repaid.

##### 10.2 Repayment of Revolving Facility Loans

Each Revolving Facility Borrower which has drawn a Revolving Facility Loan shall repay that Loan on the last day of its Interest Period.

##### 10.3 Repayment of Ancillary Facilities

On the Termination Date applicable to the relevant Revolving Facility, each Revolving Facility Borrower under an Ancillary Facility shall repay all amounts (if any) owing or outstanding under that Ancillary Facility.



## **11. ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION**

### **11.1 Illegality**

If it becomes unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in any Utilisation:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying Listco, the Commitments of that Lender will be immediately cancelled or, as the case may be, on such date that Lender's Commitments shall be transferred to another person pursuant to Clause 29.11 (*Replacement of Lenders*); and
- (c) each Borrower shall repay that Lender's participation in the Utilisations made to that Borrower on the last day of the Interest Period for each Utilisation occurring after the Agent has notified Listco or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law) or, as the case may be, on such date that Lender's participation in the Utilisations shall be transferred at par to another person as set out in Clause 29.11 (*Replacement of Lenders*).

### **11.2 Illegality in relation to an Issuing Bank**

If it becomes unlawful for an Issuing Bank to issue or leave outstanding any Letter of Credit in any jurisdiction, then:

- (a) that Issuing Bank shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying Listco, the Issuing Bank shall not be obliged to issue any Letter of Credit in that jurisdiction;
- (c) Listco shall procure that the relevant Borrower shall use its best endeavours to procure the release of each Letter of Credit issued by that Issuing Bank and outstanding at such time; and
- (d) unless any other Lender (or other person pursuant to Clause 29.11 (*Replacement of Lenders*)) has agreed to be an Issuing Bank pursuant to the terms of this Agreement, the Revolving Facility shall cease to be available for the issue of Letters of Credit in that jurisdiction.

### **11.3 Cancellation**

- (a) Listco may, if it gives the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum amount of EUR 1,000,000 in relation to Euro Denominated Facilities or US\$1,000,000 in relation to US\$ Denominated Facilities (or its equivalent)) of an Available Facility. Any cancellation under this Clause 11.3 shall reduce the Commitments of the Lenders rateably under that Facility.
- (b) In relation to each Facility, any Commitments which, at the end of the Availability Period applicable to that Facility, are unutilised shall immediately and automatically be cancelled at such time.



#### 11.4 Voluntary prepayment of Term Loans

- (a) Subject to the Intercreditor Agreement and to paragraph (c) below, a Borrower to which a Term Loan has been made may, if it or Listco gives the Agent not less than five Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of that Term Loan (but, if in part, being a minimum amount of EUR 1,000,000 in relation to Euro Denominated Facilities or \$1,000,000 in relation to US\$ Denominated Facilities (or the equivalent)).
- (b) A Term Loan may only be prepaid after the last day of the Availability Period (or, if earlier, the day on which the applicable Available Facility is zero).

#### 11.5 Voluntary prepayment of Revolving Facility Utilisations

Subject to paragraph (b) below, a Borrower to which a Revolving Facility Utilisation has been made may, if such Borrower or Listco gives the Agent not less than five Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of a Revolving Facility Utilisation (but, if in part, being an amount that reduces the Base Currency Amount of the Revolving Facility Utilisation by a minimum amount of EUR 1,000,000 (or its equivalent)).

#### 11.6 Right of cancellation and repayment in relation to a single Lender or Issuing Bank

- (a) If:
  - (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 18.2 (*Tax gross-up*);
  - (ii) any Lender or Issuing Bank claims indemnification from an Obligor under Clause 18.3 (*Tax indemnity*) or Clause 19.1 (*Increased Costs*);
  - (iii) a Market Disruption Event occurs pursuant to Clause 16 (*Changes to the calculation of interest*) in relation to certain but not all the Lenders; or
  - (iv) at any time a Lender becomes a Non-Consenting Lender,

Listco may, whilst the circumstance giving rise to the requirement or indemnification continues, give the Agent notice:

- (A) (if such circumstances relate to a Lender) of cancellation of the Commitments of that Lender and its intention to procure the repayment of that Lender's participation in the Utilisations or to require the transfer of that Lender's rights and obligations pursuant to Clause 29.11 (*Replacement of Lenders*); or
  - (B) (if such circumstances relate to the Issuing Bank) of repayment of any outstanding Letter of Credit issued by it and cancellation of its appointment as an Issuing Bank under this Agreement in relation to any Letters of Credit to be issued in the future or its request to transfer that Issuing Bank's rights and obligations pursuant to Clause 29.11 (*Replacement of Lenders*).
- (b) On receipt of a notice referred to in paragraph (a) above in relation to a Lender, the Commitments of that Lender shall immediately be reduced to zero or transferred to another person pursuant to Clause 29.11 (*Replacement of Lenders*).



- (c) On the last day of each Interest Period which ends after Listco has given notice under paragraph (a)(i), (ii) or (iii) above in relation to a Lender (or, if earlier, the date specified by Listco in that notice), each Borrower to which a Utilisation is outstanding shall repay that Lender's participation in that Utilisation together with all interest and other amounts accrued under the Finance Documents or the relevant Lender shall transfer its rights and obligations pursuant to Clause 29.11 (*Replacement of Lenders*).
- (d) On the last day of each Interest Period which ends after Listco has given notice under paragraph (a)(iv) above in relation to a Lender (or, if earlier, the date specified by Listco in that notice), each Borrower to which a Utilisation is outstanding shall, with the consent of each of the Lenders forming the Majority Lenders (unless the prepayment is funded by New Equity or Subordinated Debt received after the Closing Date or Retained Cash) repay that Lender's participation in that Utilisation together with all interest and other amounts accrued under the Finance Documents and/or the relevant Lender shall transfer its rights and obligations pursuant to Clause 29.11 (*Replacement of Lenders*).

## **12. MANDATORY PREPAYMENT**

### **12.1 Exit**

- (a) Upon the occurrence of:
  - (i) a Change of Control; or
  - (ii) the sale of all or substantially all of the assets of the Group, whether in a single transaction or a series of related transactions,

Listco shall immediately notify the Agent (who shall notify the Finance Parties), and each Lender shall be entitled to require, by written notice to the Obligors' Agent received not later than the date 30 days after the date on which the Lenders received notice that such event has occurred, that its Commitments are cancelled and all outstanding Utilisations (together with all other amounts accrued or owing under the Finance Documents) in respect of that Lender become immediately due and payable, whereupon:

- (A) all such amounts will become immediately due and payable and the Borrowers will immediately prepay or procure the prepayment of all Utilisations and Ancillary Outstandings provided by that Lender, together with accrued interest and all other amounts accrued or owing under the Finance Documents to and in respect of that Lender;
- (B) each Borrower will immediately repay or procure the repayment of all sums advanced to it under any Ancillary Facility (including all Ancillary Outstandings), together with all other amounts accrued or owing by the Obligors in connection therewith, made available by that Lender (provided that a Borrower and an Ancillary Facility Lender may agree, as between themselves only and notwithstanding paragraph (1) above, that any Ancillary Facilities will continue to remain available on a bilateral basis between such parties and not under (or subject to the terms of) the Finance Documents (in which case such Ancillary Facilities will be treated as repaid in full for all purposes under the Finance Documents)); and



- (C) the Commitments of that Lender will be cancelled and such Lender shall have no Commitments or obligation to participate in further Utilisations requested under this Agreement.

## 12.2 Disposal, insurance and Excess Cashflow

- (a) For the purposes of this Clause 12.2, Clause 12.3 (*Application of mandatory prepayments*) and Clause 12.4 (*Mandatory Prepayment Account*):

**"Disposal"** means a sale, lease, licence, transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).

**"Disposal Proceeds"** means the Net Proceeds received by any member of the Group (including any amount received in repayment of intercompany debt) for any Disposal made by any member of the Group, except for Excluded Disposal Proceeds.

**"Excluded Disposal Proceeds"** means the Net Proceeds of any Disposal which is or which are:

- (i) of trading assets made by any member of the Group in the ordinary course of trading of the disposing entity;
- (ii) of any asset by a member of the Group (the **"Disposing Company"**) to another member of the Group (the **"Acquiring Company"**), but if the Disposing Company is a Guarantor, the Acquiring Company must also be a Guarantor and if the Disposing Company has given Security over the asset the Acquiring Company must, subject to the Security Principles, give equivalent Security over the asset;
- (iii) of any asset from an Obligor to a member of the Group which is not an Obligor **provided that** the aggregate amount transferred by all Obligors (net of the value of any assets transferred from a member of the Group which is not an Obligor to an Obligor) does not exceed at any time EUR 60,000,000 (or its equivalent);
- (iv) of assets (other than shares, businesses or intellectual property) in exchange for other assets reasonably comparable or superior as to type or quality for use in the business;
- (v) of Cash or Cash Equivalent Investments;
- (vi) constituted by a licence of Intellectual Property;
- (vii) made to a Joint Venture, to the extent permitted by Clause 27.8 (*Joint Ventures*);
- (viii) arising as a result of any Permitted Security or Permitted Transaction;
- (ix) a lease or licence of Real Property in the ordinary course of business;
- (x) an individual Disposal not falling under the preceding paragraphs where the Net Proceeds from that Disposal are an amount less than EUR 10,000,000 (or its equivalent);
- (xi) applied or committed to be applied or designated by the board of directors of Listco for application in the purchase of assets, Permitted Acquisitions and Capital Expenditure within 12 Months of receipt (or such longer period as the Majority Lenders may agree), **provided that** if so designated or committed, they are actually so applied within 18 Months of receipt; or



- (xii) disposals not falling under the preceding paragraphs, the Net Proceeds of which when aggregated with the Net Proceeds of other Disposals made in the same Financial Year of Listco and not falling under the preceding paragraphs do not exceed an amount of EUR 50,000,000 (or its equivalent) in any Financial Year.

**"Excluded Insurance Proceeds"** means any Net Proceeds of insurance claims:

- (i) which are third party liability, business interruption or similar claims;
- (ii) which do not exceed an amount of EUR 10,000,000 (or its equivalent) in aggregate in any Financial Year; or
- (iii) which are applied, committed to be so applied or designated by the board of directors of Listco to be so applied:
  - (A) to meet a third party claim; or
  - (B) to the replacement, reinstatement and/or repair of the assets in respect of which the relevant insurance claim was made,

within 12 Months of receipt (or such longer period as the Majority Lenders may agree), **provided that** if so designated or committed they are actually so applied within 18 Months of receipt.

**"Insurance Proceeds"** means the Net Proceeds of any insurance claim received by any member of the Group, except for Excluded Insurance Proceeds.

- (b) Listco shall ensure that the Borrowers shall prepay Utilisations at the times and in the order of application contemplated by Clause 12.3 (*Application of mandatory prepayments*) in respect of:
  - (i) the amount of Disposal Proceeds; and
  - (ii) the amount of Insurance Proceeds.

- (c) Excess Cashflow

For any Financial Year of Listco commencing with the Financial Year ending on 31 December 2018, Listco shall ensure that the Borrowers prepay Utilisations at the time and in the order of application contemplated by Clause 12.3 (*Application of mandatory prepayments*) in an amount equal to:

- (i) in respect of each Financial Year at the end of which Debt Cover is greater than 4.5:1, 50 per cent. of the Excess Cashflow for that Financial Year;
- (ii) in respect of each Financial Year at the end of which Debt Cover is equal to or less than 4.5:1 but greater than 3.75:1, 25 per cent. of Excess Cashflow for that Financial Year; and
- (iii) for the avoidance of doubt, in respect of each Financial Year at the end of which Debt Cover is equal to or less than 3.75:1, none of the Excess Cashflow for that Financial Year,

(and, for this purpose, Debt Cover shall be calculated after taking into account any prepayment to be made under this paragraph (c) to the extent not leading to double counting), **provided that** from the applicable percentage of Excess Cashflow shall be deducted:



- (A) any voluntary prepayments made during that Financial Year; and
- (B) an amount of EUR 60,000,000 as a *de minimis* amount.

### **12.3 Application of mandatory prepayments**

- (a) A prepayment made under Clause 12.2 (*Disposal, insurance and Excess Cashflow*) shall be applied in the following order:
  - (i) first, in prepayment of Term Loans as contemplated below;
  - (ii) secondly, in cancellation of Available Commitments under each Revolving Facility (and the Available Commitments of the Lenders under each Revolving Facility will be cancelled rateably);
  - (iii) thirdly, in prepayment and cancellation of Revolving Facility Utilisations and of Revolving Facility Commitments; and
  - (iv) fourthly, in repayment and cancellation of the Ancillary Outstandings and Ancillary Commitments.
- (b) A prepayment under Clause 12.2 (*Disposal, insurance and Excess Cashflow*) shall prepay the Term Loans if after the applicable Availability Period, in amounts which reduce each of the Term Loans by the same proportion and pro rata across those Loans.
- (c) Unless Listco makes an election under paragraph (d) below, the Borrowers shall apply such amount against prepayments and cancellations which are due under this Agreement in accordance with paragraph (a) above at the following times:
  - (i) in the case of any prepayment relating to the amounts of Disposal Proceeds or Insurance Proceeds, promptly upon receipt of those proceeds; and
  - (ii) subject to Clause 12.6 (*Right to refuse prepayment*), in the case of any prepayment relating to an amount of Excess Cashflow, on the last day of the first Interest Period ending at least 15 Business Days after the date of delivery of the annual consolidated accounts of Listco pursuant to Clause 25.1 (*Financial statements*) for the relevant Financial Year.
- (d) Listco may, by giving the Agent not less than three Business Days' (or such shorter period as the Majority Lenders may agree) prior written notice, elect that any amounts to be applied in prepayment pursuant to Clause 12.2 (*Disposal, insurance and Excess Cashflow*) be paid into the Mandatory Prepayment Account.
- (e) If Listco has made an election under paragraph (d) above but an Event of Default under Clause 28.1 (*Non-payment*) has occurred and is continuing or a notice of acceleration or cancellation has been given pursuant to Clause 28.16 (*Acceleration*), that election shall no longer apply and the amount of the relevant prepayment shall be immediately due and payable (unless the Majority Lenders otherwise agree in writing).
- (f) The Agent shall notify the Lenders as soon as possible of any prepayment of any Term Loan to be made under Clause 11.4 (*Voluntary prepayment of Term Loans*) or Clause 12.2 (*Disposal, insurance and Excess Cashflow*).



## 12.4 Mandatory Prepayment Account

- (a) Listco shall ensure that:
- (i) Disposal Proceeds and Insurance Proceeds in respect of which Listco has made an election under paragraph (d) of Clause 12.3 (*Application of mandatory prepayments*) are paid into a Mandatory Prepayment Account promptly upon receipt by a member of the Group; and
  - (ii) an amount equal to any Excess Cashflow in respect of which Listco has made an election under paragraph (d) of Clause 12.3 (*Application of mandatory prepayments*) is paid into a Mandatory Prepayment Account promptly after such election,

and Listco and each Borrower irrevocably authorise the Agent to apply amounts credited to the Mandatory Prepayment Account which are required to be applied pursuant to paragraph (b) or (c) of Clause 12.2 (*Disposal, insurance and Excess Cashflow*) to pay amounts due and payable under Clause 12.3 (*Application of mandatory prepayments*) and otherwise under the Finance Documents on the last day of the Interest Period relating to the relevant Term Loan.

A Lender, Security Agent or Agent with which a Mandatory Prepayment Account is held acknowledges and agrees that (A) interest shall accrue at normal commercial rates on amounts credited to that account and, subject to there being no Event of Default continuing, that the account holder shall be entitled to withdraw or transfer such interest (which shall be paid in accordance with the mandate relating to such account) and (B) such Mandatory Prepayment Account is subject to the Transaction Security.

## 12.5 General

- (a) All prepayments to be made under Clause 12.2 (*Disposal, insurance and Excess Cashflow*) are subject to permissibility under local law (including, without limitation, financial assistance, corporate benefit restrictions on up-streaming of cash intra-group and the fiduciary and statutory duties of the directors of the relevant members of the Group). There will be no requirement to make any prepayment where the Tax or other cost to the Group of making that payment or making the relevant funds available to another member of the Group to enable such payment to be made is disproportionate to the amount to be prepaid. For the avoidance of doubt, such payment is disproportionate if the costs exceed an amount equal to 3 per cent. of the amount to be prepaid. Listco shall ensure that all members of the Group will use their reasonable endeavours to overcome any restrictions and/or minimise any costs of a prepayment. If at any time those restrictions are removed, any relevant proceeds will be applied in prepayment of the Facilities at the end of the next Interest Period.
- (b) Notwithstanding Clause 12.3 (*Application of mandatory prepayments*), if a Borrower is unable to up-stream moneys required to be prepaid in accordance with this Clause 12 but can prepay Term Loans made to it otherwise than in accordance with the order of prepayment described in Clause 12.3 (*Application of mandatory prepayments*), then that Borrower will prepay Term Loans made to it unless the relevant Borrower certifies to the Lender that it is not able to as a result of matters described in paragraph (a) above.

## 12.6 Right to Refuse Prepayment

- (a) Subject to paragraph (b) below, if a Lender (a "**Non-Accepting Lender**") to which a proposed payment under paragraph (c) of Clause 12.2 (*Disposal, insurance and Excess Cashflow*) would



otherwise be made, gives notice to the Agent by 11.00 a.m. on the third Business Day prior to the date on which a prepayment referred to in paragraph (c) of Clause 12.2 (*Disposal, Insurance and Excess Cashflow*) is to be made (or such shorter period as the Agent may agree) of its intention to waive its right to receive such prepayment, that Lender will be deemed to have waived its right to receive such prepayment to the extent specified in that notice.

- (b) If any Non-Accepting Lender delivers any notice under paragraph (a) above, the amount in respect of which that Non-Accepting Lender has been deemed to have waived its right to prepayment under paragraph (a) above (the "**Waived Amount**") shall be retained by the Group or (at Listco's option) offered on a pro rata basis to the other Lenders under the Term Facilities.

### **13. RESTRICTIONS**

#### **13.1 Notices of cancellation or prepayment**

- (a) Subject to paragraph (b) below, any notice of cancellation or prepayment given by any Party under Clause 11 (*Illegality, voluntary prepayment and cancellation*) or Clause 12 (*Mandatory prepayment*) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any notice of prepayment and/or cancellation given by Listco under paragraph (a) of Clause 11.3 (*Cancellation*), Clause 11.4 (*Voluntary prepayment of Term Loans*) and/or Clause 11.5 (*Voluntary prepayment of Revolving Facility Utilisations*) may provide that the relevant prepayment and/or cancellation (as applicable) referred to therein is conditional.

#### **13.2 Interest and other amounts**

Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs and subject to Clause 17.6 (*Call premium*), without premium or penalty.

#### **13.3 No reborrowing of Term Facilities**

No Borrower may reborrow any part of a Term Facility which is prepaid.

#### **13.4 Reborrowing of Revolving Facility**

Unless a contrary indication appears in this Agreement, any part of a Revolving Facility which is prepaid may be reborrowed in accordance with the terms of this Agreement.

#### **13.5 Prepayment in accordance with Agreement**

No Borrower shall repay or prepay all or any part of the Utilisations or cancel all or any part of the Commitments, except at the times and in the manner expressly provided for in this Agreement.

#### **13.6 No reinstatement of Commitments**

No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

#### **13.7 Agent's receipt of notices**

If the Agent receives a notice under Clause 11 (*Illegality, voluntary prepayment and cancellation*) or Clause 12 (*Mandatory prepayment*), it shall promptly forward a copy of that notice to either Listco or the affected Lender, as appropriate.



**SECTION 5**  
**COSTS OF UTILISATION**

**14. INTEREST**

**14.1 Calculation of interest**

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the applicable:

- (a) Margin; and
- (b) LIBOR or, in relation to any Loan in euro, EURIBOR.

**14.2 Payment of interest**

The Borrower to which a Loan has been made shall pay accrued interest on that Loan on the last day of each Interest Period (and, if the Interest Period is longer than six Months, on the dates falling at six Monthly intervals after the first day of the Interest Period).

**14.3 Default interest**

- (a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is 1 per cent. per annum higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 14.3 shall be immediately payable by the Obligor on demand by the Agent.
- (b) If any overdue amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
  - (i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
  - (ii) the rate of interest applying to the overdue amount during that first Interest Period shall be 1 per cent. per annum higher than the rate which would have applied if the overdue amount had not become due.
- (c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

**14.4 Notification of rates of interest**

The Agent shall promptly notify the Lenders and the relevant Borrower (or Listco) of the determination of a rate of interest under this Agreement.

**15. INTEREST PERIODS**

**15.1 Selection of Interest Periods**

- (a) A Borrower (or Listco on behalf of a Borrower) may select an Interest Period for a Loan in the Utilisation Request for that Loan or (if the Loan is a Term Loan and has already been borrowed) in a Selection Notice.



- (b) Each Selection Notice for a Term Loan is irrevocable and must be delivered to the Agent by the Borrower (or Listco on behalf of the Borrower) to which that Term Loan was made not later than the Specified Time.
- (c) If a Borrower (or Listco) fails to deliver a Selection Notice to the Agent in accordance with paragraph (b) above, the relevant Interest Period will be one Month.
- (d) Subject to this Clause 15, a Borrower (or Listco) may select an Interest Period:
  - (i) in respect of any Euro Denominated Facility, of one, two, three or six Months; or
  - (ii) in respect of any US\$ Denominated Facility, of one, two or three Months; or
  - (iii) (in either case) any other period agreed between Listco and the Agent (if such period is longer than six Months, acting on the instructions of all the Lenders under the relevant Facility). In addition, a Borrower (or Listco on its behalf) may select an Interest Period of a period necessary so that the last day of the relevant Interest Period matches any relevant payments under the Hedging Agreements.
- (e) Each Interest Period for a Term Loan shall start on the Utilisation Date or (if already made) on the last day of its preceding Interest Period.
- (f) A Revolving Facility Loan has one Interest Period only.
- (g) An Interest Period for a Loan shall not extend beyond the Termination Date applicable to its facility.
- (h) Prior to the date on which the re-designation of Facility B5 Commitments referred to in Clause 2.5 occurs, Interest Periods for Facility B3 shall be one Month (or such other period as the Arrangers and Listco may agree).
- (i) Prior to the date on which the re-designation of Facility B6 Commitments referred to in Clause 2.6 occurs, Interest Periods for Facility B4 shall be one Month (or such other period as the Arrangers and Listco may agree).
- (j) Prior to the date on which the re-designation of Facility B7 Commitments referred to in Clause 2.7 occurs, Interest Periods for Facility B4 shall be one Month (or such other period as the Arrangers and Listco may agree).
- (k) The first Interest Period for Facility B5 shall be the period from the last day of the Availability Period for Facility B5 until the Fungibility Date.
- (l) The first Interest Period for Facility B6 shall be the period from the last day of the Availability Period for Facility B6 until the Fungibility Date.
- (m) The first Interest Period for Facility B7 shall be the period from the last day of the Availability Period for Facility B7 until the Facility B7 Fungibility Date.

## **15.2 Non-Business Days**

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

## **15.3 Consolidation and division of Term Loans**

If two or more Interest Periods:



- (i) relate to Term Loans in the same currency made under the same Facility;
- (ii) end on the same date; and
- (iii) are made to the same Borrower,

those Term Loans will, unless that Borrower (or Listco on its behalf) specifies to the contrary in the Selection Notice for the next Interest Period, be consolidated into, and treated as, a single Term Loan on the last day of the Interest Period.

## **16. CHANGES TO THE CALCULATION OF INTEREST**

### **16.1 Absence of quotations**

Subject to Clause 16.2 (*Market disruption*), if LIBOR or, if applicable, EURIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR or EURIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

### **16.2 Market disruption**

- (a) If a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's share of that Loan for the Interest Period shall be the rate per annum which is the sum of:

- (i) the Margin; and
- (ii) the rate notified to the Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan from whatever source it may reasonably select.

- (b) In this Agreement "**Market Disruption Event**" means:

- (i) at or about noon on the Quotation Day for the relevant Interest Period, the Screen Rate is not available and none or only one of the Reference Banks supplies a rate to the Agent to determine LIBOR or, if applicable, EURIBOR for the relevant currency and Interest Period; or
- (ii) before close of business in London on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 50 per cent. of that Loan) that the cost to it of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR or, if applicable, EURIBOR.

### **16.3 Alternative basis of interest or funding**

- (a) If a Market Disruption Event occurs and the Agent or Listco so requires, the Agent and Listco shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.
- (b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and Listco, be binding on all Parties.



#### 16.4 Break Costs

- (a) Each Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

#### 17. FEES

##### 17.1 Commitment fee

- (a)
  - (i) Listco shall pay, or cause to be paid, to the Agent:
    - (A) (for the account of each Original Revolving Facility Lender) a fee in the Base Currency in relation to the Original Revolving Facility, computed at the rate of 40 per cent. of the Margin in relation to the Original Revolving Facility Loans on that Lender's Available Commitment under the Original Revolving Facility on and from the April 2017 Effective Date until the end of the Availability Period applicable to the Original Revolving Facility; and
    - (B) (for the account of each relevant Additional Facility Lender) a commitment fee computed at the rate and in respect of any Additional Facility, as determined in accordance with the terms of any Additional Facility Notice,  
  
provided that (for the avoidance of doubt) no such fee shall accrue or be payable in respect of Facility B3, Facility B4, Facility B5, Facility B6 or Facility B7.
  - (ii) The accrued commitment fee is payable on the last day of each successive period of three Months which ends during the relevant Availability Period, on the last day of the relevant Availability Period and on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective (or, in the case of an Additional Facility Loan, at such other times and/or (as the case may be) for such other periods as determined in accordance with the terms of any Additional Facility Notice).
- (b)
  - (i) Listco shall pay, or cause to be paid, to the Agent:
    - (A) (for the account of each Lender under Facility B5) a fee in the Base Currency in relation to Facility B5, computed at the rate of 50 per cent. of the Margin in relation to Facility B5 Loans on that Lender's Available Commitment under Facility B5 on and from (but excluding) the date falling 30 days after the December 2017 Effective Date until the end of the Availability Period applicable to Facility B5; and
    - (B) (for the account of each Lender under Facility B6) a fee in the Base Currency in relation to Facility B6, computed at the rate of 50 per cent. of the Margin in relation to Facility B6 Loans on that Lender's Available Commitment under Facility B6 on and from (but excluding) the date falling 30 days after the



December 2017 Effective Date until the end of the Availability Period applicable to Facility B6,

provided that (for the avoidance of doubt) no such fee shall accrue or be payable in respect of Facility B3 or Facility B4.

- (ii) Listco shall pay, or cause to be paid, to the Agent (for the account of each Lender under Facility B7) a fee in the Base Currency in relation to Facility B7, computed at the rate of:
  - (A) 50 per cent. of the Margin in relation to Facility B7 Loans on that Lender's Available Commitment under Facility B7 on and from (but excluding) the date falling 30 days after date of allocation of commitments under Facility B7 (the "**Facility B7 Allocation Date**") until the earlier of (i) the end of the Availability Period applicable to Facility B7 and (ii) the date falling 60 days after the Facility B7 Allocation Date; and
  - (B) 100 per cent. of the Margin in relation to Facility B7 Loans on that Lender's Available Commitment under Facility B7 on and from (but excluding) the date falling 60 days after the Facility B7 Allocation Date until the end of the Availability Period applicable to Facility B7.
- (iii) The commitment fees described at paragraph (b)(i) and (b)(ii) above shall in each case be payable on the last day of the relevant Availability Period and on the cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

#### **17.2 Arrangement fee**

Subject to a Utilisation being made under this Agreement, Listco shall pay, or cause to be paid, to the Arrangers an arrangement or any other fee in the amount and at the times agreed in a Fee Letter or a Mandate Document.

#### **17.3 Agency fee**

Subject to a Utilisation being made under this Agreement, Listco shall pay, or cause to be paid, to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

#### **17.4 Fees payable in respect of Letters of Credit**

- (a) Each Borrower shall pay to the Agent for the account of the Issuing Bank a fronting fee at the rate of 0.125 per cent. per annum on the outstanding amount which is counter-indemnified by the other Lenders of each Letter of Credit requested by it for the period from the issue of that Letter of Credit until its Expiry Date.
- (b) Each Borrower shall pay to the Agent (for the account of each Lender) a Letter of Credit fee (computed at the rate per annum equal to the Margin applicable to a Revolving Facility Loan) on the outstanding amount of each Letter of Credit requested by it for the period from the issue of that Letter of Credit until its Expiry Date. This fee shall be distributed according to each Lender's L/C Proportion of that Letter of Credit.
- (c) The accrued fronting fee and Letter of Credit fee on a Letter of Credit set out in paragraphs (a) and (b) above, respectively, shall be payable on the last day of each successive period of three Months (or such shorter period as shall end on the Expiry Date for that Letter of Credit) starting on the date of issue of that Letter of Credit. The accrued fronting fee and Letter of Credit fee are



also payable to the Agent on the cancelled amount of any Lender's Revolving Facility Commitment at the time the cancellation is effective if that Commitment is cancelled in full and the Letter of Credit is prepaid or repaid in full.

- (d) If a Borrower cash covers any part of a Letter of Credit then:
- (i) no fronting fee shall be payable to the Issuing Bank (but the Letter of Credit fee shall be payable for the account of each Lender but calculated, for this purpose, at the rate of 50 per cent. of the Margin applicable to the Revolving Facility) until the expiry of the Letter of Credit; and
  - (ii) each Borrower will be entitled to withdraw the interest accrued on the cash cover to pay the fees set out in paragraph (i) above.

#### **17.5 Interest, commission and fees on Ancillary Facilities**

The rate and time of payment of interest, commission, fees and any other remuneration in respect of each Ancillary Facility shall be determined by agreement between the relevant Ancillary Lender and the Borrower of that Ancillary Facility based upon normal market rates and terms.

#### **17.6 Call premium**

- (a) If any Re-pricing Event occurs with respect to either Facility B3 or Facility B5 at any time during the period from (and including) the December 2017 Effective Date to (and including) the date falling six Months after the December 2017 Effective Date, Listco shall pay, or cause to be paid, to the Agent on the date of such Re-pricing Event (for the account of each Lender whose participations in Utilisations are the subject of the relevant Re-pricing Event), in each case, a fee in an aggregate amount equal to one per cent. of that Lender's participation in those Utilisations which are subject to that Re-pricing Event.
- (b) If any Re-pricing Event occurs with respect to either Facility B4, Facility B6 or Facility B7 at any time during the period from (and including) the 2018 Effective Date to (and including) the date falling six Months after the 2018 Effective Date, Listco shall pay, or cause to be paid, to the Agent on the date of such Re-pricing Event (for the account of each Lender whose participations in Utilisations are the subject of the relevant Re-pricing Event), in each case, a fee in an aggregate amount equal to one per cent. of that Lender's participation in those Utilisations which are subject to that Re-pricing Event.
- (c) In this Clause:
- "Re-pricing Event"** means:
- (i) any prepayment or repayment of any Utilisation with the proceeds of, or any conversion or rollover of Utilisations into, any new, additional or replacement, securities, issuance, facility, tranche or commitment (or any increase in any securities, issuance, facility, tranche or commitment) the all-in yield (determined in a manner consistent with that described in paragraph (d)(iv) of Clause 2.4 (*Additional Facilities*) of which as of the date of establishment is lower than the all-in yield (calculated on the same basis) applicable to the relevant Facility in respect of which the relevant Utilisation to be prepaid or repaid (or, as applicable, converted or rolled-over) relates as of the date of establishment of the



relevant new, additional or replacement, securities, issuance, facility, tranche or commitment (or increase in any securities, issuance, facility, tranche or commitment); or

- (ii) any amendment to any Finance Document the effect of which is to reduce the all-in yield applicable to any Facility (in each case, calculated on a consistent basis and excluding any arrangement, structuring or other upfront fees and any prepayment fees payable in connection therewith or consequent thereon),

but in each case excluding any prepayment, repayment or amendment in connection with a Change of Control.



**SECTION 6**  
**ADDITIONAL PAYMENT OBLIGATIONS**

**18. TAX GROSS-UP AND INDEMNITIES**

**18.1 Definitions**

(a) In this Agreement:

**"Domestic Lender"** means, in relation to any Obligor other an Obligor incorporated in the United Kingdom, a Lender that is lending through a Facility Office in, and is resident for tax purposes in, the jurisdiction of incorporation of that Obligor (the **"Relevant Tax Jurisdiction"**) (provided that interest payments received through such Facility Office are included within the taxable profits of that Facility Office for the purpose of calculating that Lender's taxable income in such jurisdiction).

**"Protected Party"** means a Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

**"Qualifying Lender"** means:

- (i) a UK Qualifying Lender;
- (ii) a Domestic Lender;
- (iii) a Treaty Lender;
- (iv) a Lender to which all payments of interest and other payments on an advance under a Finance Document can be made by the relevant Obligor making the payment without a Tax Deduction being imposed; or
- (v) a Lender which Listco has confirmed in writing to the Agent is to be treated as a Qualifying Lender.

**"UK Qualifying Lender"** means:

- (i) a Lender (other than a Lender within paragraph (ii) below) which is beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document and is:
  - (A) a Lender:
    - (1) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document; or
    - (2) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made,

and which is within the charge to United Kingdom corporation tax in respect of any payments made in respect of that advance,



- (B) a Lender which is:
  - (1) a company resident in the United Kingdom for United Kingdom tax purposes;
  - (2) a partnership, each member of which is:
    - (a) a company so resident in the United Kingdom; or
    - (b) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of Section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
  - (3) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of Section 19 of the CTA) of that company; or
- (ii) a Lender that is a building society (as defined for the purpose of section 880 of the ITA) making an advance under a Finance Document.

**"Tax Confirmation"** means a confirmation by a Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under a Finance Document is either:

- (i) a company resident in the United Kingdom for United Kingdom tax purposes; or
- (ii) a partnership each member of which is:
  - (A) a company so resident in the United Kingdom; or
  - (B) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of Section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
- (iii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of Section 19 of the CTA) of that company.

**"Tax Credit"** means a credit against, relief or remission for, or repayment of, any Tax.

**"Tax Deduction"** means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

**"Tax Payment"** means either the increase in a payment made by an Obligor to a Finance Party under Clause 18.2 (*Tax gross-up*) or a payment under Clause 18.3 (*Tax indemnity*).

**"Treaty Lender"** means a Lender which:



- (i) is treated as a resident of a Treaty State for the purposes of the Treaty;
- (ii) does not carry on a business in the jurisdiction of incorporation of the respective Obligor (or, where Listco is the relevant Obligor, the United Kingdom, unless and until such time as Listco ceases to be resident in the United Kingdom for United Kingdom tax purposes) through a permanent establishment with which that Lender's participation in the Loan is effectively connected; and
- (iii) fulfils any other condition which must be fulfilled under the double taxation agreement by residents of the Treaty State for such resident to obtain exemption from taxation on interest in the Obligor's Relevant Jurisdiction, subject to the completion of procedural formalities.

**"Treaty State"** means a jurisdiction having a double taxation agreement (a **"Treaty"**) with the jurisdiction of incorporation of the relevant Obligor (or, where Listco is the relevant Obligor, the United Kingdom, unless and until such time as Listco ceases to be resident in the United Kingdom for United Kingdom tax purposes) which makes provision for full exemption from tax imposed by the jurisdiction of incorporation of the relevant Obligor on interest.

**"UK Non-Bank Lender"** means:

- (i) where a Lender becomes a Party on the day on which this Agreement is entered into, a Lender which gives a Tax Confirmation to the Agent or Listco in connection with this Agreement;
- (ii) where a Lender becomes a Party after the day on which this Agreement is entered into, a Lender which gives a Tax Confirmation in the Transfer Certificate and Lender Accession Undertaking or the Lender Accession Notice which it executes on becoming a Party.

Unless a contrary indication appears, in this Clause 18 a reference to **"determines"** or **"determined"** means a determination made in the absolute discretion of the person making the determination.

## 18.2 Tax gross-up

- (a) Subject to Clause 18.8 (*Tax gross-up by Guarantors*), each Obligor shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) Listco shall promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender or Issuing Bank shall notify the Agent on becoming so aware in respect of a payment payable to that Lender or Issuing Bank. If the Agent receives such notification from a Lender or Issuing Bank it shall promptly notify Listco and that Obligor.
- (c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) Other than with respect to the US Co-Borrower, an Obligor is not required to make an increased payment to a Lender under paragraph (c) above for a Tax Deduction in respect of Tax imposed



by the respective Obligor's Relevant Jurisdiction from a payment, if on the date on which the payment falls due:

- (i) the payment could have been made to the relevant Lender without a Tax Deduction if the Lender had been a Qualifying Lender, but on that date that Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or concession of any relevant taxing authority;
  - (ii) the relevant Lender is a Qualifying Lender solely under paragraph (i)(B) of the definition of 'UK Qualifying Lender'; and
    - (A) the Board of HM Revenue and Customs has given (and not revoked) a direction (a "**Direction**") under section 931 of the ITA which relates to that payment and that Lender has received from that Obligor or Listco a certified copy of that Direction; and
    - (B) the payment could have been made to the Lender without any Tax Deduction in the absence of that Direction; or
  - (iii) the relevant Lender is a Qualifying Lender solely by virtue of paragraph (i)(B) of the definition of 'UK Qualifying Lender' and;
    - (A) the relevant Lender has not given a Tax Confirmation to Listco; and
    - (B) the payment could have been made to the Lender without any Tax Deduction if the Lender had given a Tax Confirmation to Listco, on the basis that the Tax Confirmation would have enabled Listco to have formed a reasonable belief that the payment was an "excepted payment" for the purpose of section 930 of the ITA;
  - (iv) the relevant Lender is a Treaty Lender and the Obligor making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had that Lender complied with its obligations under paragraph (g) below; or
  - (v) the relevant Lender is a Treaty Lender and the relevant Obligor is incorporated in the United Kingdom and it has not received a direction (other than that of a provisional nature) from HM Revenue and Customs which is in full force and effect entitling the relevant Obligor to make such payment to that Lender without deducting United Kingdom Tax.
- (e) If an Obligor is required to make a Tax Deduction, that Obligor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (f) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Obligor making that Tax Deduction shall deliver to the Agent for the Finance Party entitled to the payment a statement under section 975 of the ITA or other evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.



- (g) A Treaty Lender and each Obligor which makes a payment to which that Treaty Lender is entitled shall co-operate in completing any procedural formalities necessary for that Obligor to obtain authorisation to make that payment without a Tax Deduction (including the filing of any relevant tax forms prior to the end of an Interest Period).
- (h) A UK Non-Bank Lender shall promptly notify Listco and the Agent if there is any change in the position from that set out in the Tax Confirmation given by it.
- (i) A Guarantor shall only be obliged to make a payment for or on account of a Tax Deduction if that payment would have been required to be made by the respective Obligor on the underlying liability.

### 18.3 Tax indemnity

- (a) Subject to Clause 18.8 (*Tax gross-up by Guarantors*), each Obligor shall (within three Business Days of demand by the Agent) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
  - (i) with respect to any Tax assessed on a Finance Party:
    - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes;
    - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction; or
    - (C) if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or
  - (ii) to the extent a loss, liability or cost:
    - (A) is compensated for by an increased payment under Clause 18.2 (*Tax gross-up*);
    - (B) would have been compensated for by an increased payment under Clause 18.2 (*Tax gross-up*) but was not so compensated solely because one of the exclusions in paragraph (d) of Clause 18.2 (*Tax gross-up*) applied;
    - (C) where the relevant Finance Party is a Lender, to the extent such loss, liability or cost would not have been suffered if the relevant Finance Party was a Qualifying Lender, but on the relevant date that Finance Party is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Lender under this Agreement in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or concession of any relevant taxing authority; or
    - (D) relates to a FATCA Deduction required to be made by a Party.



- (c) A Protected Party making, or intending to make, a claim under paragraph (a) above shall promptly notify the Agent of the event which will give, or has given, rise to the claim, following which the Agent shall notify Listco (or the relevant Obligor).
- (d) A Protected Party shall, on receiving a payment from an Obligor under this Clause 18.3, notify the Agent.

#### **18.4 Tax Credit**

If an Obligor makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part or to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party has obtained, utilised and retained that Tax Credit,

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

#### **18.5 Lender status confirmation**

Each Lender which becomes a Party to this Agreement after the Closing Date shall state, in the Transfer Certificate and Lender Accession Undertaking or the Lender Accession Notice which it executes on becoming a party (or, if it becomes a Lender pursuant to an assignment, in a notice delivered to Listco), which of the following categories it falls into:

- (a) a Qualifying Lender (other than a Treaty Lender); or
- (b) a Treaty Lender.

If a New Lender does not provide information as to its status in accordance with this Clause 18.5 then such New Lender shall be treated for the purposes of this Agreement as if it is not a Qualifying Lender until such time as it provides such information.

Any:

- (a) Lender of Facility B3 or Facility B4 which was a Qualifying Lender immediately prior to the December 2017 Additional Facility Effective Time; and
- (b) Revolving Facility Lender which was a Qualifying Lender immediately prior to the April 2017 Effective Date,

(in each case, in its capacity as a Lender under (and as defined in) (in the case of a Lender of Facility B3 and Facility B4) the Original Senior Facilities Agreement and (in the case of a Revolving Facility Lender) the Original Facilities Agreement as defined in the April 2017 Amendment and Restatement Agreement) shall continue to be a Qualifying Lender in its capacity as a Lender of Facility B3, Facility B4 or a Revolving Facility Lender notwithstanding the occurrence of (in the case of a Lender of Facility B3 and a Lender of Facility B4) the December 2017 Additional Facility Effective Time (or any redesignation of commitments or participations as contemplated in the December 2017 Amendment and Restatement Agreement) or (as applicable) the December 2017 Effective Date and (in the case of a Revolving Facility Lender) the Additional Facility Effective Time (as defined in the April 2017 Amendment and Restatement Agreement) (or any redesignation or participations as contemplated in the April 2017



Amendment and Restatement Agreement) or (as applicable) the April 2017 Effective Date or (in each case) any provision of this Agreement to the contrary.

#### 18.6 Stamp taxes

- (a) Listco shall pay, or cause to be paid, and, within three Business Days of demand, indemnify each Finance Party and Arranger against any cost, loss or liability that the Finance Party or Arranger incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document, **provided that** this Clause 18.6 shall not apply in respect of any stamp duty, registration and other similar Taxes which are payable in respect of an assignment, transfer or other alienation of any kind by a Lender of any its rights and/or obligations under a Finance Document.
- (b) The Parties hereto agree that no Party shall bring, send to or otherwise produce in Austria (i) an original copy, notarised copy, certified copy or a substitute documentation (*Ersatzbeurkundung und/oder rechtsbezeugende Beurkundung*) of any Finance Document or other document which refers to any Finance Document, or (ii) a copy of any Finance Document or other document which refers to any Finance Document signed or endorsed by one or more Parties (the "**Stamp Duty Sensitive Documents**"); in addition, the Parties hereto agree that no Party shall send (iii) Stamp Duty Sensitive Documents to an Austrian addressee by fax, (iv) any e-mail communication to which an electronic scan copy (e.g. pdf or tif) of a Stamp Duty Sensitive Document is attached to an Austrian addressee or (v) any e-mail communication carrying an electronic or digital signature which refers to a Stamp Duty Sensitive Document to an Austrian addressee other than in the event that:
- (i) this does not cause a liability of a Party to pay stamp duty or other Tax in Austria;
  - (ii) a Party wishes to enforce any of its rights under or in connection with such Finance Document in Austria and is only able to do so (including, without limitation, for reason of any objection or defence raised by an Obligor or a Guarantor in any form of proceedings in Austria) by bringing, sending to or otherwise producing in Austria (1) an original copy, notarised copy or certified copy of the relevant Finance Document or other document which refers to any Finance Document or (2) a copy of any Finance Document or other document which refers to any Finance Document signed or endorsed by one or more Party and it would not be sufficient for that Party to bring, send to or otherwise produce in Austria a simple copy (a copy which is not an original copy, notarised copy or certified copy) of the relevant Finance Document or other document which refers to any Finance Document for the purposes of such enforcement; in furtherance of the foregoing, a Party shall (I) not object to the introduction into evidence of an uncertified copy of any Finance Document or other document which refers to any Finance Document or raise a defence to any action or to the exercise of any remedy on the basis of an original or certified copy of any Finance Document or other document which refers to any Finance Document not having been introduced into evidence, unless such uncertified copy actually introduced into evidence does not accurately reflect the content of the original document and (II) if such Party is a party to the proceedings before such Austrian court or authority, stipulate as to the accuracy (*Echtheit*) of an uncertified copy of any such Finance Document or other document which refers to any Finance Document, unless such uncertified copy



actually introduced into evidence does not accurately reflect the content of the original document; or

- (iii) a Party is required by law, governmental body, court, authority or agency pursuant to any law or legal requirement, to bring an original or certified copy of any Finance Document or other document which refers to any Finance Document into Austria.
- (c) If and to the extent that a breach by any Party of any obligation under paragraph (b) of this Clause 18.6 results in any cost, loss or liability being incurred by any of the other Parties in relation to any Austrian stamp duty payable in respect to any Finance Document, the Party responsible for such breach shall pay and indemnify such other Parties against any such cost, loss or liability which such other Parties incur as a consequence of such breach, provided that a Finance Party shall only be liable where such cost, loss or liability is incurred as a result of its gross negligence or wilful misconduct.

#### **18.7 Value added tax**

- (a) All amounts set out in or expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes shall be deemed to be exclusive of any VAT which is chargeable on such supply, and, accordingly, subject to paragraph (c) below, if VAT is chargeable on any supply made by any Finance Party to any Party under a Finance Document and that Finance Party (or any other member of any group of which it is a member for VAT purposes) is required to account to the relevant tax authority for the VAT, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT (and such Finance Party shall promptly provide an appropriate VAT invoice to such Party).
- (b) If VAT is chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for such supply to the Supplier (rather than being required to reimburse the Recipient in respect of that consideration), such Party shall also pay to the Supplier (in addition to and at the same time as paying such amount) an amount equal to the amount of such VAT. The Recipient will promptly pay to the Relevant Party an amount equal to any credit or repayment from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply.
- (c) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the Finance Party against all VAT incurred by the Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that neither it nor any other member of any group of which it is a member for VAT purposes is entitled to credit or repayment from the relevant tax authority in respect of the VAT.

#### **18.8 Tax gross-up by Guarantors**

A Guarantor shall not be required to make an additional payment under Clause 18.2 (*Tax gross-up*) or Clause 18.3 (*Tax indemnity*) in respect of a Guarantee Payment Amount to the extent that the Borrower which is principally liable for the amounts which constitute the Guarantee Payment Amount would not be required to make an additional payment under Clause 18.2 (*Tax gross-up*)



or Clause 18.3 (*Tax indemnity*) if it were to make payment of the Guarantee Payment Amount in place of the relevant Guarantor and, if required to make such payment, the Guarantor would only be liable to the same extent as such Borrower. For the purposes of this Clause 18.8, "**Guarantee Payment Amount**" means any amount for which a Guarantor is liable pursuant to the operation of Clause 23 (*Guarantee and indemnity*).

#### **18.9 FATCA Information**

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

#### **18.10 FATCA Deduction**

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



is making the payment and, in addition, shall notify Listco, the Agent and the other Finance Parties.

#### **18.11 US Tax Treatment**

The Parties, if and to the extent permitted under of applicable law, agree to treat any Loan to the US Co-Borrower as a Loan to Luxco (and not as a Loan to the US Co-Borrower) for US federal income tax purposes.

### **19. INCREASED COSTS**

#### **19.1 Increased Costs**

(a) Subject to Clause 19.3 (*Exceptions*), Listco shall, within three Business Days of a demand by the Agent, pay, or cause to be paid, for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation, (ii) compliance with any law or regulation made after the Closing Date or (iii) the implementation or application of or compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Dodd-Frank Act**") and any requests, rules, guidelines or directives made under, or issued in connection with, the Dodd-Frank Act.

(b) In this Agreement "**Increased Costs**" means:

- (i) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or an Ancillary Commitment or funding or performing its obligations under any Finance Document or Letter of Credit.

#### **19.2 Increased Cost claims**

- (a) A Finance Party intending to make a claim pursuant to Clause 19.1 (*Increased Costs*) shall promptly and in any event within 6 months of the occurrence of the event giving rise to the claim notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify Listco.
- (b) Each Finance Party shall, as soon as practicable after a demand by the Agent, provide a certificate confirming the amount of its Increased Costs.
- (c) In respect of Clause 19.1 (*Increased Costs*), this Clause 19.2 and the payment of any Increased Costs attributable to the implementation of or compliance with Dodd-Frank Act, the obligation to pay such costs to the Lender shall be subject to the Lender confirming to Listco, at the relevant time that any such costs are due, that the payment of such costs is consistent with the general approach that the Lender is taking for similar facilities with similarly rated obligors.
- (d) Nothing in paragraph (c) above shall require the relevant Lender to disclose any information which is of a price sensitive nature or where that Lender is under a contractual duty of



confidentiality or where the provision of such information will result in a breach of law or regulation.

### 19.3 Exceptions

- (a) Clause 19.1 (*Increased Costs*) does not apply to the extent any Increased Cost is:
- (i) attributable to a Tax Deduction required by law to be made by an Obligor;
  - (ii) attributable to a FATCA Deduction required by law to be made by a Party;
  - (iii) compensated for by Clause 18.3 (*Tax indemnity*) (or would have been compensated for under Clause 18.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 18.3 (*Tax indemnity*) applied);
  - (iv) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

## 20. OTHER INDEMNITIES

### 20.1 Currency indemnity

- (a) If any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
- (i) making or filing a claim or proof against that Obligor; or
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Arranger and each other Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion, including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

### 20.2 Other indemnities

Listco shall (or shall procure that an Obligor will), within three Business Days of demand, indemnify each Arranger and each other Finance Party against (i) any Break Costs of any Lender that arise as a result of any condition to any prepayment and/or cancellation of any Facility as specified in any notice of prepayment and/or cancellation given by Listco under Clause 11.3 (*Cancellation*), Clause 11.4 (*Voluntary prepayment of Term Loans*) and/or Clause 11.5 (*Voluntary prepayment of Revolving Facility Utilisations*) not being satisfied and the corresponding prepayment and/or cancellation not being made (or not being made in full) on the date specified in such notice, and (ii) any cost, loss or liability incurred by it as a result of:

- (a) the occurrence of any Event of Default;



- (b) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including, without limitation, any cost, loss or liability arising as a result of Clause 34 (*Sharing among the Finance Parties*);
- (c) funding, or making arrangements to fund, its participation in a Utilisation requested by a Borrower in a Utilisation Request, but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone);
- (d) issuing or making arrangements to issue a Letter of Credit requested by Listco or a Borrower in a Utilisation Request, but not issued by reason of the operation of any one or more of the provisions of this Agreement; or
- (e) a Utilisation (or part of a Utilisation) not being prepaid in accordance with a notice of prepayment given by a Borrower or Listco.

### **20.3 Indemnity to the Agent**

Listco shall promptly indemnify the Agent against any reasonable cost, loss or liability incurred by the Agent (acting reasonably) as a result of:

- (a) investigating any event which it reasonably believes is a Default;
- (b) entering into or performing any foreign exchange contract for the purposes of paragraph (b) of Clause 35.9 (*Change of currency*); or
- (c) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

### **20.4 Transaction indemnity**

Listco shall promptly indemnify each Arranger, each of the Agent and the Security Agent, and each of their respective Affiliates, and each officer or employee of any such person, against any reasonable cost, loss or liability incurred by an Arranger and/or the Agent and/or the Security Agent, or any of their respective Affiliates (or officer or employee of any such person) in connection with or arising out of the transactions contemplated by this Agreement, the April 2017 Amendment and Restatement Agreement, the December 2017 Amendment and Restatement Agreement, the 2018 Amendment and Restatement Agreement, the Intercreditor Agreement or any other Finance Document, unless such loss or liability is caused by the gross negligence or wilful misconduct of that Arranger or Agent or Security Agent or its Affiliate.

Any Affiliate or any officer or employee of an Arranger, Agent or Security Agent or any of their Affiliates may rely on this Clause 20.4.

## **21. MITIGATION BY THE LENDERS**

### **21.1 Mitigation**

- (a) Each Finance Party shall, in consultation with Listco, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 11.1 (*Illegality*) (or, in respect of the Issuing Bank, Clause 11.2 (*Illegality in relation to an Issuing Bank*)), Clause 18 (*Tax gross-up and indemnities*) or Clause 19.1 (*Increased Costs*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.



- (b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

## **21.2 Limitation of liability**

- (a) Listco shall indemnify, or shall cause a member of the Group to indemnify, each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 21.1 (*Mitigation*).
- (b) A Finance Party is not obliged to take any steps under Clause 21.1 (*Mitigation*) if, in the opinion of that Finance Party (acting reasonably), to do so might be prejudicial to it in any material respect.

## **22. COSTS AND EXPENSES**

### **22.1 Transaction expenses**

Listco shall, within 20 Business Days of demand, pay, or cause to be paid, to the Agent, the Arrangers, the Issuing Bank and the Security Agent the amount of all reasonable legal costs and expenses (but, for the avoidance of doubt, no other costs or expenses) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, perfection and syndication of:

- (a) the Finance Documents and any other documents referred to in this Agreement, the December 2017 Amendment and Restatement Agreement, the 2018 Amendment and Restatement Agreement, the Intercreditor Agreement and the Transaction Security; and
- (b) any other Finance Documents executed after the December 2017 Effective Date or the 2018 Effective Date.

### **22.2 Amendment costs**

If (a) an Obligor requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 35.9 (*Change of currency*), Listco shall, within three Business Days of demand, reimburse, or cause a member of the Group to reimburse, each of the Agent and the Security Agent for the amount of all reasonable costs and expenses (including legal fees) incurred by the Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

### **22.3 Enforcement and preservation costs**

Listco shall, within three Business Days of demand, pay, or cause to be paid, to each Arranger and each other Finance Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or, after a Declared Default or an RCF Declared Default, the preservation of any rights under any Finance Document and the Transaction Security and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.



## SECTION 7 GUARANTEE

### 23. GUARANTEE AND INDEMNITY

#### 23.1 Guarantee and indemnity

Each Guarantor irrevocably and unconditionally, jointly and severally:

- (i) guarantees to each Finance Party punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents;
- (ii) undertakes with each Finance Party that, whenever another Obligor does not pay any amount when due under or in connection with any Finance Document, that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (iii) indemnifies each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

#### 23.2 Continuing guarantee

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

#### 23.3 Reinstatement

If any payment by an Obligor or any discharge given by a Finance Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

- (a) the liability of each Obligor shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (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.

#### 23.4 Waiver of defences

The obligations of each Guarantor under this Clause 23 will not be affected by an act, omission, matter or thing which, but for this Clause 23, would reduce, release or prejudice any of its obligations under this Clause 23 (without limitation and whether or not known to it or any Finance Party), including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other



requirement in respect of any instrument or any failure to realise the full value of any security;

- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (however fundamental and of whatsoever nature) or replacement of a Finance Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

### 23.5 Guarantor intent

- (a) Without prejudice to the generality of Clause 23.4 (*Waiver of defences*), each Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purpose of or in connection with any of the following: acquisitions of any nature, increasing working capital, enabling investor distributions to be made, carrying out restructurings, refinancing existing facilities, refinancing any other indebtedness, making facilities available to new borrowers, any other variation or extension of the purposes for which any facility or amount might be made available from time to time, and any fees, costs and/or expenses associated with any of the foregoing.
- (b) Notwithstanding any other provision of the Finance Documents the guarantee and indemnity granted by a Guarantor incorporated in Austria (an "**Austrian Guarantor**"), is meant to be and shall be interpreted as abstract guarantee (*abstrakter Garantievertrag*) and the obligations of such Austrian Guarantor shall be obligations as principal debtor and not as surety (*Bürgschaft*) and not as a joint obligation as a borrower (*Mitschuldner*) and such Austrian Guarantor undertakes to pay the amounts so demanded under or pursuant to this guarantee and indemnity unconditionally, irrevocably, upon first demand and without raising any defences or objections, set-off or counterclaim and without verification of the legal ground (*unbedingt, unwiderruflich, auf erste Aufforderung und unter Verzicht auf alle Einwendungen oder Einreden, ohne Aufrechnung oder die Geltendmachung von Gegenforderungen und ohne Prüfung des Rechtsgrunds*).

### 23.6 Immediate recourse

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 23. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

### 23.7 Appropriations

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, 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 money received from any Guarantor or on account of any Guarantor's liability under this Clause 23.

### **23.8 Deferral of Guarantors' rights**

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

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under Clause 23.1 (*Guarantee and indemnity*);
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party.

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with Clause 35 (*Payment mechanics*).

### **23.9 Release of Guarantors' right of contribution**

If any Guarantor (a "**Retiring Guarantor**") ceases to be a Guarantor in accordance with the terms of this Agreement and the Intercreditor Agreement 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.

### 23.10 Additional security

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

### 23.11 Limitations on obligations of German Guarantors

In relation to each Guarantor incorporated in the Federal Republic of Germany in the form of a GmbH or GmbH & Co. KG (a "**German Guarantor**"), the following limitations shall apply:

- (a) The Finance Parties agree, other than in accordance with the procedure set out in the following paragraphs of this Clause 23, not to enforce any guarantee created hereunder granted by a German Guarantor if and to the extent that such guarantee is an up-stream or cross-stream guarantee and the enforcement would otherwise lead to the situation that it would create or aggravate an existing under-balance (*Unterbilanz*) of such German Guarantor (or, in the case of a GmbH & Co. KG, of its general partner) and that such German Guarantor did not have sufficient net assets (i.e. assets minus liabilities and liability reserves (*Reinvermögen*)) to maintain its (or, in the case of a GmbH & Co. KG, its general partner's) stated share capital (*Stammkapital*) whereby the net assets shall be determined in accordance with applicable law at the time of the determination, **provided that** for the purposes of the calculation of the amount to be enforced (if any) the following balance sheet items shall be adjusted as follows:
- (i) the amount of any increase of stated share capital of such German Guarantor (or, in the case of a GmbH & Co. KG, the stated share capital of its general partner) after the Closing Date which is not permitted under the Finance Documents shall be deducted from the stated share capital;
  - (ii) loans and other contractual liabilities incurred by such German Guarantor, and/or, in the case of a GmbH & Co. KG, its general partner, in violation of the provisions of any of the Finance Documents shall be disregarded to the extent that such violation results from grossly negligent or wilful misbehaviour; and
  - (iii) to the extent payment under the guarantee would deprive a German Guarantor, or (in the case of a GmbH & Co. KG) the general partner of such German Guarantor, of the liquidity necessary to fulfil its financial liabilities to its creditors (a "**Liquidity Impairment**"), then, for the determination of the net assets, the assets of such German Guarantor or, in the case of a GmbH & Co. KG, the assets of its general partner shall be calculated at the lesser of their book value (*Buchwert*) and their realisation value assuming a negative prognosis for the business continuance (*Liquidationswert bei negativer Fortführungsprognose*).
- (b) The limitations set out in the preceding paragraph shall only apply if and to the extent that
- (i) within 15 Business Days following the making of a demand against a German



Guarantor under the guarantee created hereunder the relevant German Guarantor has confirmed in writing to the Agent (x) to what extent the guarantee is an up-stream or cross-stream guarantee as described in paragraph (a) above and (y) which amount of such cross-stream and/or up-stream guarantee cannot be enforced as it would cause the net assets of such German Guarantor or, in the case of a GmbH & Co. KG, its general partner to fall below its stated share capital or create or aggravate an existing under-balance of such German Guarantor (or, in the case of a GmbH & Co. KG, of its general partner) (taking into account the adjustments set out in paragraph (a) above) (the "**Management Determination**"); and (ii) if the Agent (acting on the instructions of the Majority Lenders) contests the Management Determination (arguing that no or a lesser amount would be necessary to maintain the stated share capital or to avoid the creation or aggravation of an existing under-balance of such German Guarantor (or, in the case of a GmbH & Co. KG, of its general partner)), within 40 Business Days of the date the Agent has notified the respective German Guarantor that the Majority Lenders have contested the Management Determination, the Agent receives a determination by auditors of international standard and reputation (the "**Auditor's Determination**") appointed by the German Guarantor of the amount that would have been necessary on the date the demand under the guarantee was made to maintain its or its general partner's stated share capital or to avoid the creation or aggravation of an existing under-balance of such German Guarantor (or, in the case of a GmbH & Co. KG, of its general partner).

- (c) If the Agent acting on the instructions of the Majority Lenders disagrees with the Auditor's Determination, it shall notify the respective German Guarantor accordingly. The Finance Parties shall only be entitled to enforce the guarantee up to the amount which is undisputed between themselves and the respective German Guarantor in accordance with the provisions of paragraph (b) above. In relation to the amount which is disputed by the Majority Lenders, the Finance Parties shall be entitled to further pursue their claims under this guarantee (if any) in court but shall bear the burden of proof that the Auditor's Determination is incorrect; it being understood, for the avoidance of doubt, that the respective German Guarantor shall not be obliged to pay such further amount claimed by the Finance Parties on demand.
- (d) If the guarantee was enforced without limitation because the Management Determination and/or the Auditor's Determination (as the case may be) was not delivered within the relevant timeframe, the Finance Parties shall repay to the respective German Guarantor any amount which is necessary to maintain its stated share capital or, in the case of a GmbH & Co. KG, that of its general partner or to avoid the creation or aggravation of an existing under-balance of such German Guarantor (or, in the case of a GmbH & Co. KG, of its general partner), calculated as of the date the demand under the guarantee was made and in accordance with paragraph (a) above.
- (e) In the case that any German Guarantor claims in accordance with the provisions of paragraphs (b) and (d) above that the guarantee granted hereunder can only be enforced in a limited amount (as set out above), the relevant German Guarantor (or, in the case of a GmbH & Co. KG, its general partner) shall realise any asset that is shown



in the balance sheet with a book value (*Buchwert*) that is significantly lower than the market value of such asset and that can be realised to the extent legally permitted and commercially justifiable.

- (f) The limitations set out in this Clause 23 shall apply *mutatis mutandis* to all payment obligations of a German Guarantor incurred under or in connection with the Finance Documents in respect of the obligations of any of its Holding Companies or Affiliates (other than any of its Subsidiaries) under or in connection with the Finance Documents (by way of indemnification or otherwise).
- (g) The limitations set out in this Clause 23.11 do not apply if and to the extent that the German Guarantor is a party to a domination and/or profit and loss pooling agreement (*Beherrschungs- und/oder Gewinnabführungsvertrag*) as dominated entity, provided that the enforcement of the guarantee and/or other payment obligations does not lead to a violation of the capital maintenance requirement as set out in Section 30 para 1 of the German Limited Liability Companies Act (*Gesetz betreffend die Gesellschaften mit beschränkter Haftung*).

### **23.12 Limitations on obligations of Austrian Guarantors**

- (a) To the extent that the guarantee and indemnity in this Clause 23 is given by any Austrian Guarantor, any and all obligations (*Verpflichtungen*) and liabilities (*Haftungen*) of an Austrian Guarantor under such guarantee and indemnity shall at all times be limited so that at no time the assumption of a liability (*Haftungen*) and/or obligation (*Verpflichtung*) shall be required to the extent that such liability (*Haftung*) or obligation (*Verpflichtung*) would violate Austrian capital maintenance rules (*Kapitalerhaltungsvorschriften*) pursuant to Austrian company law, in particular sections 82 et seq. of the Austrian Act on Limited Liability Companies (*Gesetz über Gesellschaften mit beschränkter Haftung*) and/or sections 52 and 65 et seq. of the Austrian Stock Corporation Act (*Aktiengesetz*) (the "**Austrian Capital Maintenance Rules**"). Should any obligation (*Verpflichtung*) and/or liability (*Haftung*) of an Austrian Guarantor under the guarantee and indemnity in this Clause 23 violate or contradict the Austrian Capital Maintenance Rules and therefore be held invalid or unenforceable in whole or in part or should the assumption or enforcement of such obligation (*Verpflichtung*) or liability (*Haftung*) expose any managing director or member of the supervisory board of any Austrian Guarantor to personal liability or criminal responsibility, such obligation/or liability shall be deemed to be replaced by an obligation (*Verpflichtung*) and/or liability (*Haftung*) of a similar nature (i) which is in compliance with the Austrian Capital Maintenance Rules, (ii) which does not expose the managing directors or members of the supervisory board of the Austrian Guarantor to any personal liability or criminal responsibility; and (iii) which provides the best possible security interest admissible in accordance with the Austrian Capital Maintenance Rules in favour of the Finance Parties. By way of example, should it be held that the guarantee and indemnity pursuant to this Clause 23 contradicts the Austrian Capital Maintenance Rules in relation to any amount of the obligations secured by such guarantee and indemnity, the guarantee and indemnity pursuant to this Clause 23 shall be reduced to such an amount which is permitted pursuant to the Austrian Capital Maintenance Rules, and potentially even to zero.



### 23.13 Limitations on obligations of Belgian Guarantors

The Finance Parties agree that the liability of any Guarantor incorporated in Belgium (a "**Belgian Guarantor**") under the Finance Documents and the Senior Secured Notes Finance Documents (as defined in the Intercreditor Agreement) in relation to the Original Senior Secured Notes shall in all circumstances be limited to an amount equal to: (a) any intra-group loans or facilities made to a Belgian Guarantor by any other member of the Group (whether or not such intra-group loan is retained by the Belgian Guarantor for its own purposes or on-lent to another member of the Group); or (b) 85 per cent. of the net assets (as determined in accordance with the Belgian Companies Code and accounting principles generally accepted in Belgium, but not taking intra-group debts into account as debts) of that Belgian Guarantor calculated on the basis of the most recent audited annual accounts available at the date on which the relevant demand is made, whichever amount is higher. In addition, any guarantee granted by a Belgian Guarantor shall not include any liability which would constitute unlawful financial assistance, as determined under article 329 or 629 (or equivalent) of the Belgian Companies Code, nor unlawful dividend distribution, as determined under article 320 or 617 (or equivalent) of the Belgian Companies Code.

### 23.14 Limitations on obligations of Finnish Guarantors

The obligations and liabilities of each Guarantor incorporated in Finland (each a "**Finnish Guarantor**") in its capacity as a Guarantor under the Finance Documents shall be limited if (and only if), and only to the extent they would constitute (i) unlawful financial assistance within the meaning of Chapter 13 Section 10 of the Finnish Companies Act (1.9.2006/624, as amended, the "**Finnish Companies Act**") or (ii) unlawful distribution of assets within the meaning of Chapter 13 Section 1 of the Finnish Companies Act and it is agreed that the liability of each Finnish Guarantor under the Finance Documents only applies to the extent permitted by the above mentioned provisions of the Finnish Companies Act.

### 23.15 Limitations on obligations of Luxembourg Guarantors

(a) Notwithstanding the foregoing and any other provision of any Finance Document to the contrary, the obligations and liabilities of any Luxembourg Guarantor under any Finance Document for the obligations of any other Obligor (other than that Luxembourg Guarantor) which is not a Subsidiary of that Luxembourg Guarantor shall be limited at any time (with no double counting), to an aggregate amount not exceeding 90-95 per cent. of the greater of:

- (i) the sum of (i) the Luxembourg Guarantor's own funds (*capitaux propres*) (as referred to in Annex I to the Grand-Ducal Regulation dated 18 December 2015 setting out the form and content of the presentation of the balance sheet and profit and loss account, enforcing the Luxembourg law of 19 December 2002 on the commercial companies' register and the accounting and annual accounts of undertakings, as amended (the "**Own Funds**")) and (ii) any intragroup debt owed by such Luxembourg Guarantor to any of its direct or indirect shareholders and to any member of the Group which is subordinated in accordance with the Debt Documents (as determined by Annex 1 of the Grand-Ducal Regulation of 18 December 2015 in relation to, inter alia, article 34 of the Luxembourg law of 19 December 2002 on the Register of Commerce and Companies, on accounting and on annual accounts of the companies) (the debts referred to in (ii) is referred to as the "**Subordinated Affiliate Debt**"), in each case as determined on the



- basis of the then latest available annual accounts of the Luxembourg Guarantor duly established in accordance with applicable accounting rules, as at the date this Agreement was entered into; or
- (ii) the sum of (i) the Own Funds and (ii) the Subordinated Affiliate Debt, in each case as determined on the basis of the then latest available annual accounts of the Luxembourg Guarantor duly established in accordance with applicable accounting rules), as at the date on which the guarantee or security is called or enforced.
- (b) Where, for the purpose of the above determination, (i) no duly established annual accounts are available for the relevant reference period (which will include a situation where, in respect of the determinations to be made above, no final annual accounts have been established in due time in respect of the then most recently ended financial year) or (ii) the relevant annual accounts do not adequately reflect the status of the Subordinated Affiliate Debt or Own Funds as envisaged above, in the sole opinion of the security agent, acting reasonably or (iii) the Luxembourg Guarantor has taken corporate or contractual actions having resulted in the increase or decrease of its Own Funds or its Subordinated Affiliate Debt since the close of its last financial year, the Own Funds and the Subordinated Affiliate Debt will be valued either (i) at the fair market value or (ii) if no such market value has been determined, in accordance with the generally accepted accounting principles in Luxembourg and the relevant provisions of the Luxembourg law of 19 December 2002 on the commercial companies' register and the accounting and annual accounts of undertakings, as amended.
- (c) For the purpose of calculating the amounts available from a Luxembourg Guarantor under the guarantee granted under this Clause 23, any amount called from such Luxembourg Guarantor pursuant to clause 28 (*Guarantee and Indemnity*) of the Intercreditor Agreement and/or under any Second Lien Debt Notes Guarantees (as defined in the Intercreditor Agreement) shall be taken into account, without double counting.

### **23.16 Limitations on obligations of Norwegian Guarantors**

Without limiting the generality of the foregoing, the obligations and liabilities of any Guarantor incorporated in Norway (each a "**Norwegian Guarantor**") in its relevant capacity under the Finance Documents shall be limited if (and only if) required by the mandatory provisions of the Norwegian Private Limited Liability Companies Act of 13 June 1997 No. 44 or the Norwegian Public Limited Liability Companies Act of 13 June 1997 No. 45 (as the case may be) (the "**Norwegian Companies Act**"), including but not limited to Sections 8-7 and 8-10 cf. Sections 1-3 and 1-4, regulating unlawful financial assistance and other restrictions on a Norwegian limited liability company's capacity or ability to grant guarantees and joint and several liability, loans or security interests. It is understood that the obligations and liabilities of each Norwegian Guarantor under the Finance Documents shall always be interpreted so as to make each Norwegian Guarantor liable to the fullest extent permitted by the above provisions of the Norwegian Companies Act.

### **23.17 Limitations on obligations of Spanish Guarantors**

Notwithstanding the foregoing and any other provisions of this Agreement, the obligations and liabilities of any Spanish Guarantor under this Clause 23 or any other provision of this Agreement, shall be deemed not to be assumed by such Spanish Guarantor to the extent that they constitute or may constitute unlawful financial assistance within the meaning of article 150



of the Spanish Companies Law (where the company is a Spanish public company (*Sociedad Anónima*)) or article 143 of the Spanish Companies Law (where the company is a Spanish limited liability company (*Sociedad de Responsabilidad Limitada*)). Accordingly, the obligations and liabilities of any Spanish Guarantor under this Clause 23, Clause 31.4 (*Additional Guarantors*) or any other provision of this Agreement, the Intercreditor Agreement, any Accession Letter or Debtor Accession Deed (as defined in the Intercreditor Agreement) and any of the other Finance Documents shall not include and shall not be extended to any repayment obligations in respect of financing used in or towards (i) payment of or refinance of the purchase price or subscription for the shares or quotas in the Spanish Guarantor and/or the acquisition of or subscription for the shares or quotas in its controlling corporation directly or indirectly (or, where the company is a Spanish limited liability company (*Sociedad de Responsabilidad Limitada*), of any company of its group) or (ii) repaying or refinancing a financing used for the purposes stated in (i) above. Likewise, the obligations and liabilities of any Spanish Guarantor under this Clause 23, Clause 31.4 (*Additional Guarantors*) or any other provision of this Agreement, the Intercreditor Agreement, any Accession Letter or Debtor Accession Deed (as defined in the Intercreditor Agreement) and any of the other Finance Documents shall not include and shall not be extended to any obligations which could reasonably be expected to result in a breach of article 401 et seq of the Spanish Companies Law.

#### **23.18 Limitations on obligations of Swedish Obligor**

The obligations and liabilities of each Swedish Obligor under any Finance Document shall be limited, if (and only if) required by the mandatory provisions of the Swedish Companies Act (Sw. *Aktiebolagslag (2005:551)*) regulating:

- (a) unlawful distribution of assets and transfer of value (Sw. *värdeöverföring*) pursuant to Chapter 17, Sections 1 to 4 of the Swedish Companies Act; and
- (b) prohibited loans, security and guarantees pursuant to Chapter 21, Section 1 to 3 of the Swedish Companies Act.

#### **23.19 Limitations on obligations of US Guarantors**

Notwithstanding anything to the contrary contained herein or in any other Finance Document, the maximum liability of each US Guarantor under this Clause 23 (*Guarantee and indemnity*) shall in no event exceed an amount equal to the greatest amount that would not render such US Guarantor's obligations hereunder and under the other Finance Documents subject to avoidance under the US Bankruptcy Laws or to being set aside, avoided or annulled under any Fraudulent Transfer Law.



## SECTION 8

### REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT

#### 24. REPRESENTATIONS

##### 24.1 General

Each Obligor (unless otherwise stated below) makes the applicable representations and warranties set out in this Clause 24 on the dates set out in Clause 24.22 (*Times when representations made*) to each Finance Party.

##### **Status, authorisations and governing law**

##### 24.2 Status

- (a) It and each of its Subsidiaries (which is a Material Company) is duly incorporated with limited liability and validly existing under the law of its jurisdiction of incorporation.
- (b) It and each of its Subsidiaries (which is a Material Company) has the power to own its assets and carry on its business as it is being conducted.

##### 24.3 Binding obligations

Subject to the Legal Reservations and, in the case of paragraph (b) below, the Perfection Requirements:

- (a) the obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations; and
- (b) (without limiting the generality of paragraph (a) above) each Transaction Security Document to which it is a party creates the security interests which that Transaction Security Document purports to create and those security interests are valid and effective in all material respects.

##### 24.4 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Transaction Documents and the granting of the Transaction Security do not:

- (a) contravene any law or regulation applicable to it in any material respect;
- (b) contravene its constitutional documents in any material respect; or
- (c) breach any agreement or instrument binding upon it to an extent which has a Material Adverse Effect.

##### 24.5 Power and authority

- (a) It has the power to enter into, perform and deliver, and has taken or will have taken prior thereto all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents.
- (b) No limit on its powers will be exceeded as a result of the borrowing, grant of Security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.

##### 24.6 Validity and admissibility in evidence

- (a) Subject to the Legal Reservations and the Perfection Requirements, all Authorisations required:



- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and
- (ii) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are (or will be) in full force and effect.

- (b) All Authorisations necessary for the conduct of the business, trade and ordinary activities of members of the Group have been obtained or effected and are in full force and effect if failure to obtain or effect those Authorisations has a Material Adverse Effect.

#### **24.7 Governing law and enforcement**

- (a) Subject to the Legal Reservations, the choice of law by which a Finance Document (to which it is a party) is expressed to be governed will be recognised and enforced in its Relevant Jurisdictions.
- (b) Subject to the Legal Reservations, any judgment obtained from a court expressed to have jurisdiction in relation to a Finance Document to which it is a party will be recognised and enforced in its Relevant Jurisdictions.

#### ***No default or tax liability***

#### **24.8 No default**

- (a) On the Closing Date:
  - (i) no Event of Default is continuing; and
  - (ii) no default (however defined) is continuing under any Transaction Document that is not a Finance Document which has a Material Adverse Effect.
- (b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which has a Material Adverse Effect.

#### **24.9 Taxation**

- (a) It is not (and none of its Subsidiaries being a Material Company is) overdue (taking into account any extension or grace period) in the filing of any Tax returns to an extent which has or would have a Material Adverse Effect.
- (b) The US Co-Borrower is and shall be treated as an entity disregarded from Luxco for US federal income tax purposes, the US Co-Borrower's regarded owner is not and shall not be a US Tax Obligor, and the US Co-Borrower and its regarded owner are not engaged and shall not engage in a US trade or business for US tax purposes.

#### ***Provision of information - general***

#### **24.10 No misleading information**

- (a) All factual information contained in the Information Memorandum in relation to the Group and its holding companies is true and accurate in all material respects as at the date thereof or (as the case may be) as at the date the information is expressed to be given.



- (b) The expressions of opinion or intention provided in the Information Memorandum were made after careful consideration and were based on assumptions believed by Listco to be reasonable as at the date they were provided or as at the date (if any) they were stated.
- (c) No information relating to the Group or its holding companies has been omitted from the Information Memorandum and no such information has been withheld that results in the Information Memorandum (taken as a whole) being untrue or misleading in any material respect as at its stated date.

#### **24.11 Financial Statements**

- (a) The Original Financial Statements were prepared in accordance with the Accounting Principles consistently applied.
- (b) The most recent financial statements delivered pursuant to Clause 25 (*Information undertakings*):
  - (i) have been prepared in accordance with the Accounting Principles as applicable at the date of such financial statements; and
  - (ii) give a true and fair view of (if audited) or (if unaudited) fairly present in all material respects (having regard to the fact that financial statements which are not audited are prepared for management purposes) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.

#### ***No proceedings or breach of laws***

#### **24.12 No proceedings pending or threatened**

No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which are likely to be adversely determined and, if adversely determined, would have a Material Adverse Effect, have been started or (to the best of its knowledge or belief) threatened against it or any of its Subsidiaries.

#### **24.13 No breach of laws**

It has not breached any law or regulation, which breach would have a Material Adverse Effect.

#### **24.14 Environmental Laws**

- (a) Each member of the Group is in compliance with Clause 27.3 (*Environmental compliance*) and no circumstances have occurred which would prevent such compliance in a manner or to an extent which would have a Material Adverse Effect.
- (b) No Environmental Claim has been commenced or is threatened against any member of the Group where that claim would have, if determined against that member of the Group, a Material Adverse Effect.

#### ***Ownership of assets***

#### **24.15 Legal and beneficial ownership**

- (a) So far as it is aware, it (and, in the case of each of its Subsidiary, that Subsidiary) is the sole legal and beneficial owner of the shares and assets over which it purports to grant Transaction Security.
- (b) So far as it is aware, it (and, in the case of each of its Subsidiary, that Subsidiary) has good title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary



to carry on its business as presently conducted, in each case to the extent that the absence thereof would have a Material Adverse Effect.

#### **24.16 Intellectual Property**

- (a) It:
- (i) is the sole legal and beneficial owner of or has licensed to it all the Intellectual Property which is material in the context of its business and which is required by it in order to carry on its business as it is being conducted;
  - (ii) does not, in carrying on its business, infringe any Intellectual Property of any third party where such infringement would have a Material Adverse Effect; and
  - (iii) has taken all formal or procedural actions (including payment of fees) required to maintain any Intellectual Property owned by it save to the extent that failure to do so would not have a Material Adverse Effect.
- (b) So far as it is aware, there are no adverse circumstances relating to the validity, subsistence or use of any of its or its Subsidiaries' Intellectual Property which would have a Material Adverse Effect.

#### ***Provision of information - Group***

#### **24.17 Holding Companies**

- (a) No Nomad Holdco has traded or incurred any liabilities or commitments (actual or contingent, present or future), other than any Permitted Holding Company Activity.
- (b) Nomad Service USA Inc. has not traded or incurred any liabilities or commitments (actual or contingent, present or future), other than: (i) the employment of employees and the payment of those employees' salaries; and (ii) other liabilities incidental to maintenance of its corporate existence.

#### **24.18 Group Structure Chart**

The Group Structure Chart delivered to the Agent pursuant to Clause 4.1 (*Conditions precedent*) shows all members of the Group (other than any dormant companies) and is true, accurate and complete in all material respects.

#### **24.19 Dutch representations**

- (a) No notice under Article 36 of the Tax Collection Act (*Invorderingswet 1990*) has been given by any Dutch Obligor.
- (b) The centre of main interests of each Dutch Obligor (as referred to in Council Regulation (EC) No. 1346/2000 of 29 May 2000 on insolvency proceedings) is located in the Netherlands.
- (c) Each Dutch Obligor is in compliance with the Dutch Financial Supervision Act and any regulations issued pursuant thereto.

#### **24.20 US Regulations**

- (a) ERISA: No Obligor has incurred, or reasonably expects to incur, any liability under ERISA with respect to any "plan" (as such term is defined in Section 3(3) of ERISA), or under the terms of any such plan, in each case, which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.



- (b) Margin Regulations: No part of the proceeds of any Utilisation is being used for "buying" or "carrying" (within the meaning of Regulation T, U or X) any Margin Stock or for any purpose which violates the provisions of the regulations of the Federal Reserve Board.
- (c) Investment Company Act: No Obligor is required to be registered as an "investment company" under the US Investment Company Act of 1940.

#### **24.21 Anti-Corruption Laws, Anti-Money Laundering and Sanctions**

- (a) No member of the Group, nor any member of the Group's respective directors or officers nor, to Listco's best knowledge and belief (after due and careful inquiry), any member of the Group's employees, affiliates, agents or representatives, is a person or entity that:
  - (i) is a Restricted Party;
  - (ii) has been engaged in any transaction, activity or conduct that could reasonably be expected to result in it being designated as a Restricted Party or result in a breach of any applicable Sanctions, Anti-Corruption Laws or Anti-Money Laundering Laws;
  - (iii) is currently engaging in any transaction, activity or conduct that could result in a violation of applicable Sanctions, Anti-Corruption Laws or Anti-Money Laundering Laws;
  - (iv) has received notice of, or is otherwise aware of, any claim, action, suit, proceedings or investigation involving it with respect to any applicable Sanctions, Anti-Corruption Laws or Anti-Money Laundering Laws; and/or
  - (v) is acting on behalf of or at the direction of any Restricted Party in connection with the Facilities.
- (b) Each member of the Group conducts its business in compliance with, and has instituted policies and procedures designed to ensure compliance with, applicable Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws.
- (c) Nothing in this Clause 24.21 shall create or establish an obligation or right for a Party (each, a "**Relevant Party**") to the extent that, by agreeing to it, complying with it, exercising it, having such obligation or right, or otherwise, such Relevant Party (or any directors, officers or employees, agents and affiliates thereof) would be placed in violation of any foreign trade law or anti-boycott law applicable to it (including but not limited to Section 7 German Foreign Trade Regulation (*Außenwirtschaftsverordnung*) and Council Regulation (EC) 2271/1996), and the representations made in this Clause 24.21 shall be so limited in relation to any such Relevant Party and to that extent shall not be made by or apply to any such Relevant Party.

#### **24.22 Times when representations made**

- (a) All the representations and warranties in this Clause 24 are made by each Obligor on the Closing Date.
- (b) The representations and warranties set out in Clause 24.11 (*Financial Statements*) are deemed to be made by each Obligor on the date of delivery of the relevant financial statements.
- (c) The Repeating Representations are deemed to be made by each Obligor on the date of each Utilisation Request and on each Utilisation Date.
- (d) The Repeating Representations are deemed to be made by each Additional Obligor on the day on which it becomes (or it is proposed that it becomes) an Additional Obligor.



- (e) Each representation or warranty deemed to be made after the Closing Date shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

## 25. INFORMATION UNDERTAKINGS

The undertakings in this Clause 25 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

In this Clause 25:

**"Annual Financial Statements"** means the financial statements for a Financial Year delivered pursuant to paragraph (a)(i) of Clause 25.1 (*Financial statements*).

**"Quarterly Financial Statements"** means the financial statements delivered pursuant to paragraph (b) of Clause 25.1 (*Financial statements*).

### 25.1 Financial statements

Listco shall supply to the Agent in sufficient copies for all the Lenders:

- (a) as soon as they are available, but in any event:
  - (i) within 120 days after the end of each of its Financial Years, Listco's audited consolidated financial statements for that Financial Year; and
  - (ii) within any statutory time period allowed for the preparation thereof and only if requested by the Agent, the financial statements (consolidated if appropriate) of each Borrower for that Financial Year (if available or required by law to be prepared); and
- (b) as soon as they are available, but in any event within 90 days of the end of each Financial Quarter, Listco's financial statements, on a consolidated basis for that Financial Quarter.

### 25.2 Provision and contents of Compliance Certificate

- (a) Listco shall supply a Compliance Certificate to the Agent with:
  - (i) each set of Annual Financial Statements; and
  - (ii) each set of Quarterly Financial Statements.
- (b) Each Compliance Certificate shall set out, among other things:
  - (i) computations (in reasonable detail) as to compliance with Clause 26 (*Financial covenant*) or a certification that the financial covenant in Clause 26 (*Financial covenant*) is not required to be tested in accordance with Clause 26.2 (*Financial condition*);
  - (ii) details of the prepayments (if any) to be made from Excess Cashflow under Clause 12.2 (*Disposal, insurance and Excess Cashflow*);
  - (iii) LTM EBITDA for the Relevant Period to which that Compliance Certificate relates;
  - (iv) confirmation that no Default is continuing (or, if a Default is continuing, specify the Default and the steps being taken to remedy it);



- (v) Debt Cover for the Relevant Period and whether or not the Debt Cover Condition has been met; and
  - (vi) set out the Total Assets.
- (c) Each Compliance Certificate provided together with the Annual Financial Statements shall (in addition to the requirements of paragraph (b) above) list the Guarantors and (in reasonable detail) computations as to compliance with the coverage test pursuant to Clause 27.29 (*Guarantors*) to the extent that such Clause is required to be complied with at such time.
- (d) Each Compliance Certificate shall be signed by two directors of Listco and, if required to be delivered with the consolidated Annual Financial Statements, shall be reported on by Listco's Auditors on the proper extraction of the numbers used in the financial covenant calculations in such manner (if any) and on such conditions that the Auditors specify (unless at least two of the "Big Four" firms of auditors have adopted a general policy of not providing such reports).

### 25.3 Requirements as to financial statements

- (a) Listco shall procure that each set of Annual Financial Statements and Quarterly Financial Statements includes a balance sheet, profit and loss account and cashflow statement. In addition, Listco shall procure that each set of Annual Financial Statements shall be audited by the Auditors.
- (b) Each set of financial statements delivered by Listco pursuant to this Clause 25:
- (i) shall be certified on behalf of Listco by a director of Listco (without personal liability) as giving a true and fair view of (in the case of Annual Financial Statements for any Financial Year), or fairly representing (in other cases), the financial condition and operations of the Group as at the date on which those financial statements were drawn up;
  - (ii) in the case of the consolidated financial statements of the Group, shall be accompanied by a statement of Listco comparing actual performance for the period to which the financial statements relate to the actual performance for the corresponding period in the preceding Financial Year; and
  - (iii) shall be prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Financial Statements unless, in relation to any set of financial statements, Listco notifies the Agent that there has been a change in the Accounting Principles or the accounting practices and financial reference periods from those applied in the preparation of the Original Financial Statements and it delivers to the Agent:
    - (A) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices applied in the preparation of the Original Financial Statements; and
    - (B) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Agent and the Revolving Facility Lenders to determine whether Clause 26 (*Financial covenant*) has been complied with and to determine the amount of any prepayments to be made from Excess Cashflow under Clause 12.2 (*Disposal, insurance and Excess Cashflow*).



- (c) If Listco notifies the Agent of a change in accordance with paragraph (iii) above or of a change of its Financial Year end, then Listco and the Agent 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.
- (d) If no such agreement is reached within 30 days of that notification of change, the Agent shall (if so requested by the Majority Lenders) instruct the Auditors of Listco or independent accountants (approved by Listco or, in the absence of such approval within five days of request by the Agent of such approval, a firm with recognised expertise) to determine any amendment to Clause 26.2 (*Financial condition*), the amount of any prepayments to be made from Excess Cashflow under Clause 12.2 (*Disposal, insurance and Excess Cashflow*) and any other terms of this Agreement which the Auditors or, as the case may be, accountants (acting as experts and not arbitrators) consider appropriate to ensure the change does not result in any material alteration in the commercial effect of the terms of this Agreement. Those amendments shall take effect when so determined by the Auditors or, as the case may be, accountants. The cost and expense of the Auditors or accountants shall be for the account of Listco.
- (e) Any reference in this Agreement to any financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

#### **25.4 Law and regulation**

Notwithstanding any term of the Finance Documents to the contrary, all reporting updates and other information and disclosure requirements in the Finance Documents shall be subject to any legal or regulatory restrictions relating to the supply of information concerning Listco and its Subsidiaries (including, for the avoidance of doubt, the Group), including, without limitation, any requirements of the New York Stock Exchange or which result from the nature of the Senior Secured Notes.

#### **25.5 Calls**

- (a) Listco shall ensure that a public trading and quarterly update call is held for each class of holders of its debt securities (and that the Agent and the Lenders are each invited to join each such call) with senior management of the Group not less frequently than once in each Financial Quarter.
- (b) Listco shall notify the Agent of (and through the Agent, invite each Lender to join) any other public call held generally for its Senior Secured Noteholders or any class of holder of (or trustee in respect of) debt securities of the Group (including, for the avoidance of doubt, each such call for its Senior Secured Noteholders) with Listco providing reasonable notice of such call in advance, together with the applicable access code and such other information necessary for a Lender to directly join such call, provided that no Lender shall have a right to speak on any such



call (other than to register attendance and complete or comply with any other procedural formality) without the prior consent of Listco.

#### **25.6 Year end**

Listco shall notify the Agent of a change of its Financial Year end.

#### **25.7 Information: miscellaneous**

Listco shall supply to the Agent (in sufficient copies for all the Lenders, if the Agent so requests):

- (i) at the same time as they are despatched, copies of all documents despatched by Listco or any Obligor (other than in the ordinary course of business) to its creditors generally (or any class of them) and to its shareholders if required to be given to shareholders as a matter of mandatory law; and
- (ii) promptly on request, such factual information regarding the Group as any Finance Party through the Agent may reasonably request,

subject always to Clause 25.4 (*Law and regulation*).

#### **25.8 Notification of default**

Listco shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

#### **25.9 "Know your customer" checks**

(a) If:

- (i) the introduction of or 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 the composition of the shareholders of an Obligor after the date of this Agreement; or
- (iii) a proposed assignment or transfer by a Lender of any of its rights and/or obligations under this Agreement to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent or any Lender (or, in the case of paragraph (iii) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Obligor shall, promptly upon the request of the Agent or any Lender, supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (iii) above, on behalf of any prospective new Lender) in order for the Agent, such Lender or, in the case of the event described in paragraph (iii) above, any prospective new Lender to carry out and be satisfied with the results of all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

- (b) Each Lender shall, promptly upon the request of the Agent, supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to carry out and be satisfied with the results of all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.



- (c) Listco shall, by not less than 10 Business Days' prior written notice to the Agent, notify the Agent (which shall promptly notify the Lenders) of its intention to request that one of its Subsidiaries becomes an Additional Obligor pursuant to Clause 31 (*Changes to the Obligors*).
- (d) Following the giving of any notice pursuant to paragraph (c) above, if the accession of such Additional Obligor obliges the Agent or any Lender to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, Listco shall, promptly upon the request of the Agent or any Lender, supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender) or any Lender (for itself or on behalf of any prospective new Lender) in order for the Agent or such Lender or any prospective new Lender to carry out and be satisfied with the results of all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the accession of such Subsidiary to this Agreement as an Additional Obligor.
- (e) In the event that Listco has delivered any Lender Accession Notice or Additional Facility Notice and the Lender referred to therein is not currently a Lender, Listco shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent in order for the Agent to carry out and be satisfied with the results of all necessary "know your customer" or other checks in relation to that Lender that it is required to carry out as a consequence of that person becoming a Lender.

## 26. FINANCIAL COVENANT

### 26.1 Financial definitions

In this Clause 26:

**"Borrowings"** means, at any time, the outstanding principal or capital amount of any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) acceptance credits (or dematerialised equivalents);
- (c) moneys raised under or pursuant to bonds (other than a performance bond or advance payment bond issued in respect of the obligations of any member of the Group incurred in the ordinary course of business), notes, debentures, loan stock or any similar instrument;
- (d) any finance or capital lease or hire purchase contract which would, in accordance with the Accounting Principles (for the avoidance of doubt, as applied in the preparation of the Original Financial Statements and so as to exclude operating leases to the extent they would otherwise be reclassified and treated as finance or capital leases), be treated as a finance or capital lease but only to the extent of such treatment;
- (e) receivables sold or discounted (other than to the extent there is no recourse);
- (f) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of an underlying liability of an entity which is not a member of the Group which would fall within one of the other paragraphs of this definition;



- (g) the acquisition cost of any asset where the deferred payment is arranged primarily as a method of raising finance and in circumstances where the due date for payment is more than 180 days after the expiry of the period customarily allowed by the relevant supplier save where the payment deferral results from non-satisfaction or delayed satisfaction of contract terms by the supplier or from contract terms establishing payment schedules tied to total or partial contract completion and/or to the results of operational testing procedures;
- (h) the sale price of any asset to the extent paid by the person liable before the time of sale or delivery where such advance payment is arranged primarily as a method of raising finance unless such arrangements are entered into customarily by customers of the Group;
- (i) any amount raised under any other transaction which would be treated as borrowing in accordance with the Accounting Principles; and
- (j) (without double counting) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in the paragraphs above,

**provided that** indebtedness owed by one member of the Group to another member of the Group and Subordinated Debt shall not be taken into account and excluding, for the avoidance of doubt, pension liabilities and liabilities in respect of other provisions which are treated as borrowings under IFRS and any indebtedness under forward contracts for fish entered into in the ordinary course of business.

**"Capital Expenditure"** means any expenditure or obligation in respect of expenditure which, in accordance with the Accounting Principles, is treated as capital expenditure (other than any Permitted Acquisition and only taking into account the actual cash payment made where assets are replaced and part of the purchase price is paid by way of part exchange).

**"Cashflow"** means, in respect of any Relevant Period, Consolidated EBITDA for that Relevant Period (without double counting):

- (a) **plus** the amount of any rebate, refund or credit in respect of any Tax on profits, gains or income actually received in cash by any member of such Group during such period
- (b) **plus** to the extent not included in Consolidated EBITDA, the amount (net of any applicable withholding tax) of any dividends or other profit distributions received in cash by any member of the Group during such period from any person which is not itself a member of the Group;
- (c) **minus** all Capital Expenditure actually paid by a member of the Group during the Relevant Period except to the extent funded from:
  - (i) Retained Cash;
  - (ii) any Permitted Financial Indebtedness (other than a Revolving Facility);
  - (iii) capital contributions received from landlords in relation to Real Property in respect of which a member of the Group is a tenant; or
  - (iv) New Equity or Subordinated Debt received after the Closing Date;



- (d) **minus** the aggregate of the consideration paid for or cost of any Permitted Acquisitions and the amount of any investment in a Permitted Joint Venture made in cash during that period to the extent not included in Consolidated EBITDA and in each case except to the extent funded from Retained Cash (to the extent permitted under the Finance Documents), any Permitted Financial Indebtedness, New Equity or Subordinated Debt received after the Closing Date;
- (e) **plus** the amount of any loan which was made in respect of a Joint Venture Investment which is repaid in cash to a member of the Group;
- (f) **minus** all amounts of Tax on profits, gains or income actually paid (other than any such Tax which is netted off against any proceeds received by the Group in accordance with paragraph (b) of the definition of 'Net Proceeds') and **minus** the amount of any withholding tax withheld from any amount paid to any member of the Group which has been taken into account in calculating Consolidated EBITDA for such period and **minus** any Increased Costs notified by any Finance Party pursuant to Clause 19.1 (*Increased Costs*);
- (g) **plus** any decrease in and **minus** any increase of Working Capital between the beginning and end of such Relevant Period;
- (h) to the extent not taken into account in any other paragraph in this definition, **minus** all non-cash credits and release of provisions and **plus** all non-cash debits and other non-cash charges and provisions included in establishing Consolidated EBITDA for such period;
- (i) to the extent not taken into account in any other paragraph in this definition, **plus** any positive and **minus** any negative one-off, non-recurring, extraordinary or exceptional items received or which are paid by any member of the Group in cash during such period to the extent not already taken into account in calculating Consolidated EBITDA for such period or provided for in Acquisition Costs, Refinancing Costs or funded from Retained Cash, any Permitted Financial Indebtedness, New Equity or Subordinated Debt received after the Closing Date;
- (j) to the extent included in Consolidated EBITDA or in any other paragraph of this definition, **excluding** the effect of all cash movements associated with the Refinancing Costs (to the extent included in Cashflow);
- (k) **plus** any New Equity and/or any Subordinated Debt received after the Closing Date to the extent permitted under paragraph (d) of Clause 26.3 (*Financial testing*);
- (l) **deducting** any fees, cash or charges of a non-recurring nature related to any equity offering, investments, acquisitions or Permitted Financial Indebtedness (whether or not successful) except to the extent funded from Retained Cash (to the extent permitted by the Finance Documents) or paid out of the proceeds raised on an equity or debt securities offering or other Permitted Financial Indebtedness; and
- (m) **deducting** the amount of management, consulting, investor and advisory fees (other than in respect of any cash movements falling under paragraph (l) above) paid to Listco to the extent not taken into account in Consolidated EBITDA and other than those



funded from Retained Cash (to the extent permitted by the Finance Documents), any Permitted Financial Indebtedness, New Equity or Subordinated Debt received after the Closing Date.

"**Consolidated EBITDA**" means, for any Relevant Period, the consolidated profits of the Group from ordinary activities:

- (a) **before deducting** Interest Payable, any other Interest for which any member of the Group is liable and any deemed finance charge in respect of any pension liabilities and other provisions;
- (b) **before deducting** any amount of Tax on profits, gains or income paid or payable by any member of the Group;
- (c) **after adding back** (to the extent otherwise deducted) any amount attributable to any amortisation whatsoever (including amortisation of any goodwill arising on any Permitted Acquisition, Acquisition Costs or Refinancing Costs), any depreciation whatsoever and any costs or provisions relating to any share option schemes of the Group existing on the Closing Date;
- (d) **after deducting** (to the extent included) Interest Income and/or any other Interest accruing in favour of any member of the Group;
- (e) **excluding** any items (positive or negative) of a one-off, non-recurring, extraordinary or exceptional nature (including, without limitation, the costs associated with any restructuring programme or any aborted equity or debt securities offering);
- (f) **after deducting** (to the extent otherwise included and not already deducted pursuant to paragraph (j) below) the amount of profit (or adding back the loss) of any member of the Group which is attributable to any third party (not being a member of the Group) which is a shareholder in such member of the Group;
- (g) **after deducting** (to the extent otherwise included) any gain over book value arising in favour of a member of the Group in the disposal of any asset (not being any disposals made in the ordinary course of trading) during such period and any gain arising on any revaluation of any asset during such period;
- (h) **after adding back** (to the extent otherwise deducted) any loss against book value incurred by a member of the Group on the disposal of any asset (not being any disposal made in the ordinary course of trading) during such period and any loss arising on any revaluation of any asset during such period;
- (i) **after adding back** Acquisition Costs and Refinancing Costs to the extent deducted;
- (j) **after adding back** (to the extent not otherwise included) the amount of any dividends or other profit distributions (net of withholding tax) received in cash by any member of the Group during such period from companies which are not members of the Group, and **after deducting** (to the extent not otherwise deducted) the amount of any dividends or other profit distributions paid in cash by any member of the Group during such period to companies which are not members of the Group;



- (k) **plus** any New Equity and/or any Subordinated Debt received after the Closing Date to the extent permitted under paragraph (d) of Clause 26.3 (*Financial testing*);
- (l) **after adding** (to the extent not already included) the realised gains or **deducting** (to the extent not otherwise deducted) the realised losses arising at maturity or on termination of forward foreign exchange and other currency hedging contracts entered into with respect to the operational cashflows of the Group (but taking no account of any unrealised gains or loss on any hedging instrument whatsoever);
- (m) **after adding back** (to the extent otherwise deducted) any fees, costs or charges of a non-recurring nature related to any equity offering, compensation payments to departing management, investments (including any Joint Venture Investment), acquisitions or Permitted Financial Indebtedness (whether or not successful);
- (n) **after adding back** (to the extent otherwise deducted) any costs or provisions relating to any share option or management incentive schemes of the Group existing at the Closing Date;
- (o) **after adding** the proceeds of any business interruption insurance;
- (p) **after deducting** the amount of profit of any entity (which is not a member of the Group) in which any member of the Group has an ownership interest to the extent that the amount of such profit included in the accounts of the Group exceeds the amount (net of any applicable withholding tax) received in cash by members of the Group through distributions by that entity; and
- (q) **before taking into account** any gain or loss arising from any Debt Purchase Transaction or any purchase or buy-back by Finco or any member of the Group of any liabilities under or in connection with any New Debt Financing (or any transaction having a similar economic effect).

**"Consolidated Net Finance Charges"** means, for any Relevant Period, the amount of Interest Payable during that period less Interest Income during that period.

**"Consolidated Total Net Debt"** means, at any time, the aggregate amount of all obligations of the Group for or in respect of Borrowings but:

- (a) **including**, in the case of finance leases, only the capitalised value therefor; and
- (b) **deducting** the aggregate amount of available Cash and Cash Equivalent Investments held by any member of the Group,

and so that no amount shall be included or excluded more than once.

**"Current Assets"** means the aggregate of trade receivables and other current assets (but excluding Cash and Cash Equivalent Investments) maturing within 12 Months of the date of computation and **excluding**:

- (a) receivables in relation to tax rebates or credits on profits;
- (b) extraordinary items, exceptional items and other non-operating items;
- (c) insurance claims; and
- (d) any accrued Interest owing to any member of the Group.



**"Current Liabilities"** means the aggregate of all liabilities (including trade creditors and other current liabilities and accrued expenses) falling due within 12 Months of the date of computation but **excluding**:

- (a) liabilities for Borrowings and Interest;
- (b) liabilities for Tax on profits;
- (c) extraordinary items, exceptional items and other non-operating items;
- (d) insurance claims; and
- (e) liabilities in relation to dividends declared but not paid by Listco.

**"Debt Cover"** means, for any Relevant Period, the ratio of Consolidated Total Net Debt on the last day of that Relevant Period to Consolidated EBITDA for that Relevant Period.

**"Excess Cashflow"** means (without double counting), for any Financial Year of Listco (commencing with the Financial Year beginning 1 January 2017), Cashflow for that period less:

- (a) Net Debt Service (ignoring any reduction in Net Debt Service resulting from mandatory or voluntary prepayments made in previous Financial Years);
- (b) to the extent that the Net Proceeds giving rise to the relevant mandatory prepayment have been included in calculating Cashflow (and not deducted under paragraph (d) below), mandatory prepayments falling due (other than in respect of Excess Cashflow calculated for the immediately preceding Financial Year) during such period;
- (c) to the extent included in Cashflow, any amount of New Equity or Subordinated Debt received after the Closing Date;
- (d) the amount of Net Proceeds received by the Group which are permitted to be retained by the Group;
- (e) (to the extent otherwise included) Acquisition Costs, Refinancing Costs and Restructuring Expenditure, in each case, not funded by Borrowings; and
- (f) any payments falling under paragraph (f) of the definition of 'Permitted Payment', to the extent of payments to persons that are not members of the Group, and paragraph (h) of the definition of 'Permitted Payment',

and for the avoidance of doubt excluding (to the extent otherwise included) the proceeds of any Financial Indebtedness incurred pursuant to any Facility, any Additional Facility, the Senior Secured Notes or any New Debt Financing.

**"Financial Quarter"** means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

**"Financial Year"** means the annual accounting period of the Group ending on or about 31 December in each year.

**"Interest"** means interest and amounts in the nature of interest in respect of any Borrowings, including, without limitation:

- (a) the interest element of finance leases;



- (b) discount and acceptance fees and costs payable (or deducted) in respect of any Borrowings;
- (c) fees payable in connection with the issue or maintenance of any bond, letter of credit, guarantee or other assurance against financial loss which constitutes Borrowings and is issued by a third party on behalf of a member of the Group and accrues after the Closing Date;
- (d) repayment and prepayment premiums payable or incurred in repaying or prepaying any Borrowings; and
- (e) commitment, utilisation and non-utilisation fees payable or incurred or accrued in respect of Borrowings.

**"Interest Income"** means, for the Relevant Period, the amount of Interest accrued (whether or not received) due to members of the Group during such period.

**"Interest Payable"** means for the Relevant Period, the aggregate of Interest accrued (whether or not paid or capitalised) in respect of any Borrowings of any member of the Group during that testing period but:

- (a) **excluding** any amortisation of fees, costs and expenses incurred in connection with the raising of any Borrowings;
- (b) **excluding** any Increased Costs notified by a Finance Party and payable by the Group pursuant to Clause 19.1 (*Increased Costs*); and
- (c) **excluding** any capitalised Interest, the amount of any discount amortised and other non-cash interest charges during the Relevant Period,

and calculated on the basis that:

- (i) the amount of Interest accrued will be increased by an amount equal to any amount payable by members of the Group under hedging agreements in respect of Interest in relation to that Relevant Period; and
- (ii) the amount of Interest accrued will be reduced by an amount equal to any amount payable to members of the Group under hedging agreements in respect of Interest in relation to that Relevant Period.

**"Net Debt Service"** means, in respect of any Relevant Period, the aggregate of:

- (a) Consolidated Net Finance Charges;
- (b) the aggregate of all scheduled payments of principal of any Borrowings (and in the case of the Term Facilities as adjusted as the result of any voluntary or mandatory prepayments made in previous Relevant Periods or the current Relevant Period) falling due for payment **but excluding** any amounts falling due under any overdraft or a Revolving Facility (including, without limitation, any Ancillary Facility) which were available for simultaneous redrawing according to the terms of such facility but for any voluntary cancellation; and



- (c) the amount of the capital element of any payments in respect of that Relevant Period payable under any finance lease or capital lease entered into by any member of the Group, and so that no amount shall be included more than once.

**"Quarter Date"** means each of 31 March, 30 June, 30 September and 31 December.

**"Refinancing Costs"** means fees, costs and expenses incurred by a member of the Group in connection with this Agreement and the transactions contemplated by the Mandate Documents as set out in the Funds Flow Statement.

**"Relevant Period"** means each period of 12 Months ending on the last day of Listco's Financial Year and each period of 12 Months ending on the last day of each Financial Quarter of Listco's Financial Year.

**"Retained Cash"** means (without double counting) the aggregate of:

- (a) Net Proceeds received at any time after 1 January 2017 and permitted to be retained (and not required to be reinvested in the Group's business);
- (b) accumulated unspent Excess Cashflow arising from previous Financial Years (other than any Financial Year prior to the Financial Year commencing 1 January 2017) which the Group is not obliged to prepay (including any *de minimis* amount which has been permitted to be deducted in calculating that Excess Cashflow in previous Financial Years (other than any Financial Year prior to the Financial Year commencing 1 January 2017)); and
- (c) any Waived Amounts arising at any time after 1 January 2017,

in each case to the extent not already taken into account in any other paragraph of the relevant definition or otherwise applied in making payments, or satisfaction of consideration for transactions permitted under the Finance Documents.

**"Working Capital"** means, on any date, Current Assets less Current Liabilities.

## 26.2 Financial condition

Listco shall ensure that if, in respect of any Relevant Period ending after the Closing Date, the aggregate amount of:

- (i) all Revolving Facility Loans;
- (ii) drawn Letters of Credit; and
- (iii) Ancillary Outstandings (but excluding Ancillary Outstandings by way of undrawn letters of credit and undrawn bank guarantees under the relevant Ancillary Facility),

(together the **"RCF Drawings"**) calculated as at the last day of each such Relevant Period, is equal to or exceeds 40 per cent. of the Total Revolving Facility Commitments as at such date, Debt Cover in respect of that Relevant Period shall not exceed 8.00:1.

## 26.3 Financial testing

- (a) The financial covenant set out in Clause 26.2 (*Financial condition*) shall be calculated in accordance with the Accounting Principles as applied in the preparation of the Original Financial



Statements and tested by reference to each of the financial statements and/or each Compliance Certificate delivered pursuant to Clause 25 (*Information undertakings*).

- (b) In respect of any Relevant Period, the exchange rate used in relation to Consolidated Total Net Debt shall, at Listco's option, be:
- (i) the average exchange rate used for the purposes of determining Consolidated EBITDA for that Relevant Period;
  - (ii) where and to the extent that any part of the principal element of any such Consolidated Total Net Debt is subject to a currency hedge, the applicable hedged rate in respect of that part of Consolidated Total Net Debt; and/or
  - (iii) the spot rate on the last day of the Relevant Period consistent with the exchange rate methodology applied in the financial statements most recently delivered pursuant to Clause 25.1 (*Financial statements*).
- (c) For the purposes of the calculation of LTM EBITDA and of the calculation of Debt Cover (but not Cashflow or Excess Cashflow) (the "**Acquisition and Disposal Adjustment**"):
- (i) there shall be included in determining Consolidated EBITDA for any Relevant Period (including the portion thereof occurring prior to the relevant acquisition):
    - (A) the earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA, *mutatis mutandis*) for the period of any person, property, business or material fixed asset acquired and not subsequently sold, transferred or otherwise disposed of by any member of the Group during such period (each such person, property, business or asset acquired and not subsequently disposed of, an "**Acquired Entity or Business**"); and
    - (B) if material (unless, in relation to any material adjustment which could be made as a result of net cost savings, Listco elects not to include such net cost savings in the determination of Consolidated EBITDA), an adjustment in respect of each Acquired Entity or Business acquired during such period equal to the amount of the Pro Forma Adjustment with respect to such Acquired Entity or Business for such period; and
  - (ii) there shall be excluded in determining Consolidated EBITDA for any period the earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA, *mutatis mutandis*) of any person, property, business or material fixed asset sold, transferred or otherwise disposed of by any member of the Group during such period (including the portion thereof occurring prior to such sale, transfer, disposition or conversion) (each such person, property, business or asset so sold or disposed of, a "**Sold Entity or Business**").

"**Pro Forma Adjustment**" shall mean, for any Relevant Period that ends on any of the first five Quarter Dates to fall after the completion date of the acquisition of or investment in an Acquired Entity or Business, with respect to the Consolidated EBITDA of that Acquired Entity or Business, the *pro forma* increase or decrease in such Consolidated EBITDA (calculated for the Relevant Period by including on a *pro forma* basis the full run-rate effect of synergies and/or cost savings and/or additional cost for that acquisition) where:



- (a) such synergies and/or cost savings and/or additional cost to be taken into account are those reasonably achievable over the period (the "**Projected Period**") commencing on (and assuming that the relevant acquisition or investment has occurred on) the most recent Quarter Date (the "**First Quarter Date**") prior to the acquisition contract date and ending on the fifth Quarter Date following the acquisition completion date assuming for this purpose that such acquisition occurred on the First Quarter Date (as certified by Listco in a certificate signed by the Chief Financial Officer/Finance Director, issued by reference to Listco's knowledge with regard to the information reasonably available at such time and, in addition, if the aggregate amount of the synergies and/or cost savings and/or additional cost for that acquisition exceeds 5 per cent. of Consolidated EBITDA (prior to any Pro Forma Adjustment) of the Group, verified by independent third party due diligence from a professional advisory firm of international repute or other person approved by the Agent);
- (b) for the avoidance of doubt, the full 'run-rate effect' shall be the annualised effect of such synergies and/or cost savings and/or additional cost,

provided further that any such *pro forma* increase or decrease to such Consolidated EBITDA shall be without duplication for the effect of any assumed increase or decrease actually realised during such period and already included in such Consolidated EBITDA.

- (d) For the purpose of calculating Debt Cover pursuant to Clause 26.2 (*Financial condition*) (only), and subject to paragraphs (e) to (g) below, Listco may elect that all or any part of any New Equity and/or any Subordinated Debt (in each case without double counting any such amount):
  - (i) received after the Closing Date (in each case, to the extent not spent), shall be added to Consolidated EBITDA either during the Relevant Period it is received in or during that Relevant Period (provided the corresponding Compliance Certificate states that such election has been made and sets out the adjustment to the Debt Cover calculations that result from such election);
  - (ii) received after the end of a Relevant Period (the "**Prior Relevant Period**") but before the date falling 20 Business Days after the Compliance Certificate has been delivered, shall be added to Consolidated EBITDA for the Prior Relevant Period and shall be taken into account as if received immediately prior to the end of the Prior Relevant Period and Debt Cover will be recalculated accordingly to the extent Listco provides, in such 20 Business Day period, a revised Compliance Certificate stating that such election has been made and setting out the calculations that result from such election; or
  - (iii) received after the Prior Relevant Period but before the date falling 20 Business Days after the Compliance Certificate has been delivered for the Prior Relevant Period, to the extent RCF Drawings equal or exceed 40 per cent. of Total Revolving Facility Commitments as at the last day of the Prior Relevant Period, shall be applied so as to reduce RCF Drawings such that RCF Drawings would not have equalled or exceeded 40 per cent. of Total Revolving Facility Commitments as at the last day of the Prior Relevant Period if RCF Drawings were re-tested on such date *pro forma* for the application of such New Equity and/or any Subordinated Debt.



- (e) To the extent Listco exercises its rights under paragraph (d) above to add such amount to Consolidated EBITDA, the relevant New Equity and/or Subordinated Debt shall be taken into account in calculating the financial undertakings for the three Relevant Periods occurring immediately after the end of the Prior Relevant Period in the manner described in paragraph (d) above.
- (f) To the extent Listco exercises its rights under paragraph (d) above to reduce RCF Drawings, no member of the Group may deliver a Utilisation Request in relation to any Revolving Facility Utilisation (excluding any Rollover Loan) prior to the next Quarter Date to occur after the Prior Relevant Period in respect of which a Compliance Certificate has been delivered, unless Listco confirms in each such Utilisation Request that:
  - (i) the aggregate of RCF Drawings (x) as at the date of that Utilisation Request and (y) on the proposed Utilisation Date will not (when calculated *pro forma* for each Revolving Facility Utilisation contemplated in a Utilisation Request), equal or exceed 40 per cent. of Total Revolving Facility Commitments; or
  - (ii) the requirements of Clause 26.2 (*Financial condition*) would have been satisfied for the Prior Relevant Period if re-tested as at the last day of the Prior Relevant Period but calculated *pro forma* for the proposed Revolving Facility Utilisation (and the application of such Utilisation) and any change in Consolidated Total Net Debt since the last day of the Prior Relevant Period (with such Utilisation Request providing reasonable details of such calculation).
- (g) For the purposes of this Clause 26, Listco may only elect to include one injection of New Equity and/or Subordinated Debt in any Relevant Period and no more than two such injections during the life of the Facilities.
- (h) The effect of all unrealised currency exchange gains or losses shall be excluded from the calculation of any financial covenant ratios (save as set out in paragraph (b) above).

#### 26.4 Baskets

- (a) If, in any Financial Year of Listco commencing after the Closing Date (the "**Original Financial Year**"), the aggregate amount of any fixed numeric basket originally applied, committed to be applied or to be applied or designated by the board of directors of Listco to be applied in that Financial Year is less than the fixed numeric basket originally available for that Financial Year (without any carry forward) (the numeric difference being referred to as the "**Available Amount**"), then the maximum fixed numeric basket for the immediately following Financial Year (the "**Carry Forward Year**") shall be increased by an amount equal to the Available Amount.
- (b) In any Carry Forward Year, the original amount of that fixed numeric basket shall be treated as having been applied before any Available Amount carried forward into such Carry Forward Year. Any amount carried forward may be carried forward for one year only.

#### 27. GENERAL UNDERTAKINGS

The undertakings in this Clause 27 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

Authorisations and compliance with laws



### **27.1 Authorisations**

Subject to the Legal Reservations and the Perfection Requirements, each Obligor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect any Authorisation required under any applicable law to:

- (a) enable it to perform its obligations under the Finance Documents;
- (b) ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document; and
- (c) carry on its business, where failure to do so has a Material Adverse Effect.

### **27.2 Compliance with laws**

Each Obligor shall (and Listco shall ensure that each member of the Group will) comply in all respects with all laws to which it may be subject, if failure so to comply would have a Material Adverse Effect.

### **27.3 Environmental compliance**

Each Obligor shall (and Listco shall ensure that each member of the Group will):

- (a) comply with all Environmental Laws;
- (b) obtain, maintain and ensure compliance with all requisite Environmental Permits; and
- (c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law,

where failure to do so would have a Material Adverse Effect.

### **27.4 Taxation**

- (a) Each Obligor shall (and Listco shall ensure that each member of the Group will) pay and discharge all Taxes imposed upon it or its assets within the time period allowed or, if later, before incurring material penalties, unless and only to the extent that:
  - (i) such payment is being contested in good faith and in accordance with the relevant procedures;
  - (ii) adequate reserves are being maintained in accordance with the Accounting Principles for those Taxes and the costs required to contest them which have been disclosed in its latest financial statements delivered to the Agent under Clause 25 (*Information undertakings*) (if required to be disclosed under the Accounting Principles); and
  - (iii) such payment can be withheld without incurring material penalties and failure to pay those Taxes does not have a Material Adverse Effect.
- (b) Midco will ensure that (i) the US Co-Borrower retains its status as an entity disregarded from Luxco for US federal income tax purposes, (ii) the US Co-Borrower's regarded owner retains its status as not being a US Tax Obligor, and (iii) the US Co-Borrower and its regarded owner do not engage in a US trade or business for US tax purposes.



## **Restrictions on business focus**

### **27.5 Merger**

No Obligor shall (and Listco shall ensure that no other member of the Group will) enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Permitted Transaction.

### **27.6 Change of business**

Listco shall procure that, subject to any Permitted Acquisitions undertaken by any member of the Group, no substantial change is made to the general nature of the business of the Group taken as a whole from that carried on by the Group as at the Closing Date.

### **27.7 Acquisitions**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and Listco shall ensure that no other member of the Group will) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them).
- (b) Paragraph (a) above does not apply to an acquisition of a company, shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is a Permitted Acquisition.

### **27.8 Joint Ventures**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and Listco shall ensure that no member of the Group will):
  - (i) enter into, invest in or acquire (or agree to invest in or acquire, unless such agreement is subject to Majority Lender approval) any shares, stocks, securities or other interest in any Joint Venture; or
  - (ii) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing, unless such agreement is subject to Majority Lender approval).
- (b) Paragraph (a) above does not apply to any acquisition (or agreement to acquire) any interest in a Joint Venture or transfer of assets (or agreement to transfer assets) to a Joint Venture or loan made to or guarantee given in respect of the obligations of a Joint Venture if such transaction is a Permitted Joint Venture.

### **27.9 Holding Companies**

- (a) None of the Nomad Holdcos shall trade, carry on any business, own any assets or incur any liabilities except for a Permitted Holding Company Activity.
- (b) Nomad Service USA Inc. shall not trade, carry on any business, own any assets or incur any liabilities, other than: (i) the employment of employees and the payment of those employees' salaries; and (ii) other liabilities incidental to maintenance of its corporate existence.
- (c) The US Co-Borrower shall not be permitted to utilise any Facility.
- (d) Notwithstanding anything in this Agreement or any other Finance Document, Listco shall ensure that, at all times (i) Midco, Bondco, Luxco and the US Co-Borrower (in each case) is and remains a wholly-owned Subsidiary of Listco and (ii) (each of) Bondco, Luxco and the US Co-



Borrower do not have any Subsidiaries or own any shares or equity interests in any other person or entity.

#### **27.10 Centre of main interests and establishments**

No Obligor whose jurisdiction of incorporation is in a member state of the European Union shall deliberately change its "centre of main interests" (as that term is used in Article 3(1) of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "**Regulation**")) in a manner which would materially adversely affect the interests of the Lenders as a whole.

#### ***Restrictions on dealing with assets and Security***

#### **27.11 Pari passu ranking**

Each Obligor shall ensure that at all times any claims of a Finance Party against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

#### **27.12 Negative pledge**

In this Clause 27.12, "**Quasi-Security**" means a transaction described in paragraph (a)(ii) below.

- (a) Except as permitted under paragraph (b) below:
  - (i) no Obligor shall (and Listco shall ensure that no other member of the Group will) create or permit to subsist any Security over any of its assets; and
  - (ii) no Obligor shall (and Listco shall ensure that no other member of the Group will):
    - (A) sell, transfer or otherwise dispose to any person who is not a member of the Group of any of its assets on terms whereby they are or may be leased to or reacquired by an Obligor or by any other member of the Group;
    - (B) sell, transfer or otherwise dispose of any of its receivables to any person who is not a member of the Group on recourse terms (other than as is customary for a securitisation programme);
    - (C) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
    - (D) enter into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Borrowings or of financing the acquisition of an asset.
- (b) Paragraph (a) above does not apply to any Security or (as the case may be) Quasi-Security, which is Permitted Security.

#### **27.13 Disposals**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and Listco shall ensure that no member of the Group will) enter into a single transaction or a series of transactions (whether



related or not and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of any asset.

- (b) Paragraph (a) above does not apply to:
  - (i) any sale, lease, transfer or other disposal which is a Permitted Disposal; or
  - (ii) a Permitted Transaction.

#### **27.14 Arm's length basis**

- (a) Except as permitted by paragraph (b) below, no Obligor shall (and Listco shall ensure no member of the Group will) enter into any material transaction with any Listco Affiliate or any person not being a member of the Group except on arm's length terms or better.
- (b) The following transactions shall not be a breach of this Clause 27.14:
  - (i) fees, costs and expenses payable under the Transaction Documents or agreed by the Agent; and
  - (ii) any Permitted Transactions.

#### ***Restrictions on movement of cash - cash out***

#### **27.15 Loans or credit**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and Listco shall ensure that no member of the Group will) be a creditor in respect of any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
  - (i) a Permitted Loan;
  - (ii) a Permitted Payment; or
  - (iii) a Permitted Guarantee.

#### **27.16 No guarantees or indemnities**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and Listco shall ensure that no member of the Group will) incur or allow to remain outstanding any guarantee in respect of any obligation of any person.
- (b) Paragraph (a) above does not apply to a guarantee which is:
  - (i) a Permitted Guarantee; or
  - (ii) a Permitted Transaction.

#### **27.17 Dividends and share redemption**

- (a) Except as permitted under paragraph (b) below, Listco shall ensure that no member of the Group will:
  - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
  - (ii) repay or distribute any dividend or share premium reserve;
  - (iii) pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of any of the shareholders of Listco; or



- (iv) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.
- (b) Paragraph (a) above does not apply to:
  - (i) a Permitted Payment; or
  - (ii) a Permitted Transaction.

#### **27.18 Subordinated Debt**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and Listco shall ensure that no member of the Group will):
  - (i) repay or prepay any principal amount (or capitalised interest) outstanding under or in respect of any Subordinated Debt or any Subordinated Liabilities;
  - (ii) pay any interest or any other amounts payable in connection with or in respect of any Subordinated Debt or any Subordinated Liabilities; or
  - (iii) purchase, redeem, defease, acquire, retire or discharge, exchange or enter into any sub-participation arrangements in respect of any amount outstanding under or in respect of any Subordinated Debt or any Subordinated Liabilities.
- (b) Paragraph (a) above does not apply to a payment, repayment, prepayment, purchase, redemption, defeasance or discharge which is:
  - (i) a Permitted Payment; or
  - (ii) a Permitted Transaction.

#### ***Restrictions on movement of cash - cash in***

#### **27.19 Financial Indebtedness**

- (a) Except as permitted under paragraph (b) below, no Obligor shall (and Listco shall ensure that no member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to Financial Indebtedness which is:
  - (i) Permitted Financial Indebtedness; or
  - (ii) a Permitted Transaction.

#### **27.20 Share capital**

No Obligor shall (and Listco shall ensure no member of the Group will) issue any shares except pursuant to a Permitted Share Issue or a Permitted Transaction.

#### ***Miscellaneous***

#### **27.21 Insurance**

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



### **27.22 Pensions**

Listco shall ensure that all pension schemes operated by or maintained for the benefit of members of the Group and/or any of its employees are funded to the extent required by applicable law and regulations, where failure to do so would have a Material Adverse Effect.

### **27.23 Access**

Each Obligor shall, and Listco shall ensure that each member of the Group will, while an Event of Default under Clause 28.1 (*Non-payment*) or Clause 28.5 (*Insolvency*) is continuing or (on the instructions of the Majority RCF Lenders only) while a Financial Covenant Event of Default is continuing, permit the Agent and/or the Security Agent and/or accountants or other professional advisers and contractors of the Agent or Security Agent free access during normal business hours and on reasonable notice, at the risk and cost of the Obligor or Listco and after having consulted with Listco, to the premises, assets, books, accounts and records of each member of the Group.

### **27.24 Intellectual Property**

Each Obligor shall (and Listco shall procure that each Group member will):

- (a) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant Group member;
- (b) use reasonable endeavours to prevent any infringement in any material respect of the Intellectual Property;
- (c) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property in full force and effect and record its interest in that Intellectual Property;
- (d) not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of the Intellectual Property or imperil the right of any member of the Group to use such property; and
- (e) not discontinue the use of the Intellectual Property,

where, in each case, failure to do so would have a Material Adverse Effect.

### **27.25 Amendments**

No Obligor shall (and Listco shall ensure that no member of the Group will) amend, vary, novate, supplement, supersede, waive or terminate any provision of the constitutional documents dealing with the transfer of shares of any member of the Group whose shares are subject to Security except in writing and in a way which would not materially and adversely affect the interests of the Lenders taken as a whole.

### **27.26 Financial assistance**

Each Obligor shall (and Listco shall procure each member of the Group will) comply, where applicable, in all respects with Sections 678 to 679 of the United Kingdom Companies Act 2006 (as amended) and any equivalent legislation in other jurisdictions, including in relation to the execution of the Transaction Security Documents and payment of amounts due under this Agreement.



### 27.27 Treasury Transactions

No Obligor shall (and Listco will procure that no member of the Group will) enter into any Treasury Transaction, other than:

- (i) hedging transactions entered into for the purpose of hedging any interest rate exposures arising in connection with the Term Facilities, any Senior Secured Notes or any New Debt Financing, in each case up to the aggregate principal amount outstanding thereunder from time to time and documented by the Hedging Agreements;
- (ii) spot and forward delivery foreign exchange contracts entered into in the ordinary course of business and not for speculative purposes;
- (iii) currency hedging of any principal or interest in relation to any Term Facility, any Senior Secured Notes or any New Debt Financing and (in each case) not for speculative purposes; and
- (iv) any Treasury Transaction entered into for the hedging of actual or projected real exposures arising in the ordinary course of trading activities of a member of the Group and not for speculative purposes.

### 27.28 Cash management

- (a) Subject to paragraph (b) below, each Obligor will use reasonable endeavours to ensure that it shall not, and none of its Subsidiaries will, at any time, hold cash in excess of EUR 10,000,000 in aggregate or its equivalent with any bank which is not an Acceptable Bank for more than 3 Months.
- (b) No Obligor shall be obliged at any time to procure that any Subsidiary transfers any cash under paragraph (a) above:
  - (i) at a time when to do so would cause the Obligor or the Subsidiary (despite that person using all reasonable endeavours to avoid the relevant Tax liability) to incur a material Tax liability or to otherwise incur any material cost or expense;
  - (ii) if (despite using all reasonable efforts to avoid the breach or result) to do so would breach any applicable law or agreement or result in personal liability for the Obligor or the Subsidiary or any of such person's directors or management; or
  - (iii) if it involves an amount which is less than EUR 10,000,000 in aggregate or its equivalent for each such Subsidiary.

### 27.29 Guarantors

- (a) Subject to paragraphs (c), (d) and (e) below, Listco shall ensure that any member of the Group which is a Material Company shall, subject to the Security Principles, become an Additional Guarantor in accordance with the terms hereof and deliver all of the documents and other evidence required by Clause 31.4 (*Additional Guarantors*) and as soon as reasonably practicable after Listco delivers the Annual Financial Statements which first show that member of the Group to be a Material Company.
- (b) Subject to paragraphs (c), (d) and (e) below, Listco shall ensure that, as at the date falling 60 days after the Closing Date and as at the end of each Financial Year:



- (i) the aggregate (without double counting) earnings before interest, tax, depreciation and amortisation (calculated on the same basis as Consolidated EBITDA as specified in Clause 26.1 (*Financial definitions*)) of the Guarantors (taking each entity on an unconsolidated basis and excluding all intra-Group items) is no less than 80 per cent. of the Consolidated EBITDA of the Group; and
- (ii) the aggregate (without double counting) total assets of the Guarantors (calculated on the same basis as Total Assets and taking each entity on an unconsolidated basis and excluding intra-group items) is no less than 80 per cent. of the Total Assets,

and, for the purposes of paragraphs (i) and (ii) above (the "**Guarantor Coverage**"), as determined by reference to the Original Financial Statements and the most recent Annual Financial Statements delivered by Listco.

- (c) Subject to paragraph (e) below, where any member of the Group is not eligible to be a Guarantor pursuant to paragraph 1(b)(ii) of Schedule 12 (*Security Principles*), its EBITDA and gross assets shall not be included in the Consolidated EBITDA and Total Assets of the Group for the calculation of Guarantor Coverage, **provided that** Listco shall use its reasonable endeavours to assist in overcoming any relevant restrictions to enable such member of the Group to act as a Guarantor and, if despite such efforts such member of the Group has remained unable to act as a Guarantor, Listco shall, subject to the Security Principles, use its reasonable endeavours to enable other members of the Group to accede as Guarantors in the place of such member of the Group in order to meet the Guarantor Coverage.
- (d) Subject to paragraph (e) below, any member of the Group acquired as a result of a Permitted Acquisition shall be taken into account for the purposes of calculating the Guarantor Coverage.
- (e) Notwithstanding the preceding paragraphs, for the purposes of this Clause 27.29, Listco shall be under no obligation to ensure that Findus Italy accedes as a Guarantor, and the references to the "Group", "Consolidated EBITDA" and "Total Assets" in this Clause 27.29 shall be deemed to exclude Findus Italy.
- (f) The requirement for each Material Company to accede as a Guarantor, and for each Guarantor to provide first-ranking security over its applicable assets (and/or, as applicable, for first ranking security to be granted over its shares) as determined in accordance with the Security Principles, shall apply notwithstanding paragraphs (c) and (d) of the definition of Permitted Security.

### **27.30 Further assurance**

- (a) Each Obligor shall (and Listco shall procure that each member of the Group will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
  - (i) subject to the Security Principles, to perfect within the timeframes set out therein the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law at the times provided; and/or



- (ii) following the occurrence of a Declared Default or an RCF Declared Default, to facilitate the realisation of the assets which are, or are intended to be, the subject of Security under the Transaction Security Documents.
- (b) If any Obligor which has entered into one or more Transaction Security Documents acquires an asset (including any right, account, investment or otherwise) which is either not subject to that Transaction Security Document, or in relation to which a perfection requirement or other step must be taken in relation to that asset in connection with an existing Transaction Security Document, that Obligor shall (in all cases subject to the Security Principles) ensure that a Transaction Security Document is entered into, or, as required by the applicable Transaction Security Document that a similar perfection requirement or other step is taken, in each case in connection with that asset.

#### **27.31 Second Lien Debt Purchase Condition**

- (a) No Obligor shall (and Listco shall ensure that no other member of the Group will) undertake any Second Lien Debt Purchase or enter into a legally binding commitment or offer for a Second Lien Debt Purchase unless:
  - (i) such Second Lien Debt Purchase is funded with the net cash proceeds of New Equity or Subordinated Debt received after the Closing Date and which has not been used for any other purpose;
  - (ii) such Second Lien Debt Purchase is funded with an amount which would otherwise be available to be, and is at that time permitted to be, paid in cash to shareholders of Listco by way of a Permitted Payment; or
  - (iii) such Second Lien Debt Purchase is made following the occurrence of a Change of Control and the Group is in compliance with the requirements of Clause 12.1 (*Exit*),and provided that, in each case no Event of Default is continuing or would occur as a result of such Second Lien Debt Purchase.
- (b) Listco shall ensure that any Second Lien Debt that is the subject of a Second Lien Debt Purchase is extinguished at the time of such Second Lien Debt Purchase.

#### **27.32 Subordinated Liabilities**

No Obligor shall (and Listco shall ensure that no other member of the Group will) create, have outstanding or permit to exist any present or future liabilities or obligations owed to a direct or indirect shareholder of Listco other than constituting or in connection with the giving of a Permitted Payment or a Permitted Share Issue or constituting Subordinated Liabilities owed to a Subordinated Creditor (each as defined in the Intercreditor Agreement).

#### **27.33 Public rating**

Listco will use reasonable endeavours:

- (a) to obtain a public corporate rating for itself or another appropriate member of the Group as soon as reasonably possible from two out of three of Moody's Investors Service Inc., Standard & Poor's Financial Services LLC and Fitch Ratings Ltd., and in any event to cause the officers of the Group with appropriate seniority and expertise to hold meetings with two out of three of such rating agencies, for the purpose of obtaining such credit ratings; and



- (b) to the extent such ratings continue to be available to maintain a public corporate rating for Listco or another appropriate member of the Group from two out of three of such rating agencies.

#### 27.34 Conditions subsequent

As soon as reasonably practicable after the 2018 Additional Facility Effective Time (and in any event within the time periods specified therein), Listco shall provide or procure the provision of all the documents and other evidence set out in Part II of Schedule 2 (*2018 Conditions Precedent and Conditions Subsequent*) each in form and substance satisfactory to the Agent (acting reasonably).

#### 27.35 Covenant suspension/relaxation

Notwithstanding anything to the contrary in any Finance Document, during the period which (but only for so long as) Debt Cover (calculated on a *pro forma* basis for any action, transaction or incurrence to be entered into by an Obligor or any member of the Group) is equal to or less than 3.75:1 (the "**Debt Cover Condition**") and provided that no Default or Event of Default has occurred and is continuing at the time such action, transaction or incurrence is to be entered into, the terms of this Agreement shall be construed so as to take account of the following (and shall be interpreted accordingly):

- (i) each reference to "5" in paragraph (ii) of paragraph (b) of the definition of 'Material Company' shall be construed (and interpreted accordingly) as if it were instead a reference to "10";
- (ii) paragraphs (b), (c) and (d) of Clause 27.29 (*Guarantors*) shall be suspended and shall cease to apply;
- (iii) Clauses 27.17 (*Dividends and share redemption*) and 27.18 (*Subordinated Debt*) shall be suspended and shall cease to apply;
- (iv)
  - (A) in relation to any potential Additional Obligor (other than any Holding Company Guarantor (as defined below)), the condition precedent in paragraph 19 of Part III of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*) shall be (notwithstanding paragraph (B) below) construed (and interpreted accordingly) as if it had been replaced in its entirety and instead read "Evidence that each direct Holding Company of the Additional Obligor that is a member of the Group has become Party as an Additional Guarantor (any such Holding Company prior to its accession being a "**Holding Company Guarantor**") and has granted Transaction Security over the entire issued share capital of the Additional Obligor held by it in accordance with the Security Principles"; and
  - (B) in relation to any potential Additional Obligor which is required, as a result of the condition precedent referred to (and as to be construed and interpreted as set out in) in paragraph (A) above, to be Party as an Additional Guarantor by virtue of it being a Holding Company Guarantor, the condition precedent in paragraph 19 of Part III of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*) (notwithstanding paragraph (A) above) shall be construed (and interpreted accordingly) as if it had been replaced in its entirety and instead



read "Evidence that the Additional Obligor has granted Transaction Security over the entire issued share capital of each Obligor held by it in accordance with the Security Principles";

- (v) the reference to "EUR 100,000,000 or its equivalent" in paragraph (p) of Permitted Disposal shall instead be construed (and interpreted accordingly) as if it were instead a reference to "five per cent. of Total Assets (and with any Permitted Disposal effected in reliance on this paragraph (p) being, for the purposes of testing compliance with Clause 27.13 (*Disposals*), converted into the functional currency of the relevant Annual Financial Statements or Quarterly Financial Statements as at the date of such Permitted Disposal in a manner consistent with the Accounting Principles)"; and
- (vi) the fixed numerical baskets contained in the following provisions shall be construed (and interpreted accordingly) as if each were 25 per cent. higher than the applicable amount as at the April 2017 Effective Date and as if the Debt Cover Condition was not satisfied on the April 2017 Effective Date: paragraph (c) of the definition of 'Permitted Disposal', paragraphs (f), (i) and (m) of the definition of 'Permitted Financial Indebtedness', paragraphs (c) and (r) of the definition of 'Permitted Guarantee', paragraphs (d), (e), (f), (g) and (k) of the definition of 'Permitted Loan', paragraph (i) of the definition of 'Permitted Payment' and paragraphs (m) and (u) of the definition of 'Permitted Security',

in each case subject always to paragraph (c) of Clause 28.18 (*Operation of Clause 27 (General undertakings)*) and without prejudice to any rights of any Finance Party that may have arisen pursuant to any Finance Document (including, without limitation, Clause 4.1 (*Conditions precedent*) and/or Clause 28 (*Events of Default*)) by reference to any provision, definition or term of this Agreement and the application, effect and/or meaning of such provision, definition or term immediately prior to the Debt Cover Condition being met.

#### **27.36 Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions**

- (a) No Obligor shall (and Listco shall ensure that no other member of the Group will):
  - (i) contribute or otherwise make available all or any part of the proceeds of the Facilities, directly or indirectly, to, or for the benefit of, any individual or entity (whether or not related to any member of the Group) for the purpose of financing the activities or business of, other transactions with, or investments in, any Restricted Party or for any purpose which would result in a breach of applicable Sanctions, Anti-Corruption Laws or Anti-Money Laundering Laws;
  - (ii) directly or indirectly fund all or part of any repayment or prepayment of the Facilities out of proceeds derived from any transaction with or action involving a Restricted Party or from any activity which is in breach of any Sanctions; or
  - (iii) engage in any transaction, activity or conduct that would violate Sanctions applicable to it or result in a breach of any applicable Anti-Corruption Laws or Anti-Money Laundering Laws; or
  - (iv) engage in any transaction, activity or conduct that would cause any Finance Party to be in breach of any Sanctions or that could reasonably be expected to result in it or any other member of the Group or any Finance Party being designated as a Restricted Party.



- (b) Each Obligor will (and Listco will procure that each member of the Group will) conduct its business in compliance with, and maintain and enforce policies and procedures designed to ensure compliance with, applicable Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws.
- (c) Each Obligor agrees to provide each Finance Party with all information reasonably required by that Finance Party to carry out that Finance Party's obligations under applicable Sanctions, Anti-Money Laundering Laws and Anti-Corruption Laws.
- (d) Nothing in this Clause 27.36 shall create or establish an obligation or right for a Relevant Party to the extent that, by agreeing to it, complying with it, exercising it, having such obligation or right, or otherwise, such Relevant Party (or any directors, officers or employees, agent and affiliates thereof) would be placed in violation of any foreign trade law or anti-boycott law applicable to it (including but not limited to Section 7 German Foreign Trade Regulation (*Außenwirtschaftsverordnung*) and Council Regulation (EC) 2271/1996), and the undertakings made in this Clause 27.36 shall be so limited in relation to any such Relevant Party and to that extent shall not be made by or apply to any such Relevant Party.

## **28. EVENTS OF DEFAULT**

Each of the events or circumstances set out in Clause 28.1 (*Non-payment*) to Clause 28.15 (*Tax status*) is an Event of Default.

### **28.1 Non-payment**

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

- (a) in the case of principal and interest, payment is made within three Business Days of its due date; and
- (b) in the case of any other amount, payment is made within seven Business Days of its due date.

### **28.2 Other obligations**

- (a) An Obligor does not comply with any provision of the Finance Documents (other than those referred to in Clause 28.1 (*Non-payment*) and Clause 26.2 (*Financial condition*)).
- (b) No Event of Default under paragraph (a) above will occur, save in the case of failure to comply with Clause 27.34 (*Conditions subsequent*), if the failure to comply is capable of remedy and is remedied within 20 Business Days of the earlier of the Agent giving written notice to Listco or Listco becoming aware of the failure to comply.

### **28.3 Misrepresentation**

- (a) Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading when made or deemed to be made.
- (b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 20 Business Days of the earlier of the Agent giving written notice to Listco or Listco becoming aware of the failure to comply.



#### **28.4 Cross default**

- (a) Any Financial Indebtedness of any member of the Group is not paid when due or within any originally applicable grace period.
- (b) Any Financial Indebtedness of any member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any Financial Indebtedness of any member of the Group is cancelled or suspended by a creditor of any member of the Group as a result of an event of default (however described).
- (d) Any creditor of any member of the Group becomes entitled to declare any Financial Indebtedness of any member of the Group due and payable prior to its specified maturity as a result of an event of default (however described) but excluding as a result of a Financial Covenant Event of Default.
- (e) An RCF Declared Default occurs.
- (f) No Event of Default will occur under any of paragraphs (a) to (d) above of this Clause 28.4 if the aggregate amount of Financial Indebtedness or commitment for Financial Indebtedness falling within paragraphs (a) to (d) above is less than EUR 35,000,000 or its equivalent.

For the purpose of any of paragraphs (a) to (d) above of this Clause 28.4 (only) Financial Indebtedness shall not include Financial Indebtedness which constitutes any Subordinated Debt or any Financial Indebtedness supported by a Letter of Credit issued under a Revolving Facility.

#### **28.5 Insolvency**

- (a) A Material Company is unable or admits inability to pay its debts as they fall due, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to a general rescheduling of any of its indebtedness (or, in relation to a Material Company having its seat in Germany, any event occurs which constitutes a cause for the initiation of insolvency proceedings (*Eröffnungsgrund*) as set out in sections 17 and 19 of the German Insolvency Code (*Insolvenzordnung*) or, in relation to a Material Company incorporated in Austria, it is unable to pay its debts as they fall due (*zahlungsunfähig*) within the meaning of section 66 Austrian Insolvency Code (*Insolvenzordnung*) or is over-indebted (*überschuldet*) within the meaning of section 67 Austrian Insolvency Code (*Insolvenzordnung*)).
- (b) A Material Company incorporated in Sweden is required to prepare a special balance sheet (*Sw. kontrollbalansräkning*).

#### **28.6 Insolvency proceedings**

- (a) Any corporate action, legal proceedings or other formal procedure or step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Material Company other than a Permitted Transaction, other than the solvent liquidation or reorganisation of any member of the Group which does not materially and adversely affect the interests of the Lenders;



- (ii) a composition or assignment with any creditor of any Material Company for reasons of financial difficulty of the Material Company;
  - (iii) the appointment of a liquidator (other than in respect of a solvent liquidation of a member of the Group which is not an Obligor), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Material Company or any of its assets; or
  - (iv) any analogous procedure or step being taken in any jurisdiction in respect of all or any part of the business or assets of a Material Company (including in Austria, the opening of a composition proceeding (*Sanierungsverfahren*) under self-administration without the appointment of a receiver or the denial of the opening of insolvency proceedings due to a lack of assets (*Abweisung mangels kostendeckenden Vermögens*)), in particular, but not limiting the events listed above, in relation to a Material Company having its seat in Germany:
    - (A) a petition for insolvency proceedings in respect of its assets (*Antrag auf Eröffnung eines Insolvenzverfahrens*) being filed; or
    - (B) actions being taken pursuant to section 21 of the German Insolvency Code (*Insolvenzordnung*) by the competent court;
  - (v) the filing of an involuntary proceeding in a court of competent jurisdiction in the United States seeking relief under US Bankruptcy Law in respect of any Borrower or Material Company and either such proceeding shall continue undismissed for 45 days or an order or decree approving or ordering any of the foregoing shall be entered or Borrower or Material Company shall consent to the institution of, or fail to contest in a timely and appropriate manner, any such involuntary proceeding; or
  - (vi) the filing of a voluntarily petition by any Borrower or Material Company under US Bankruptcy Law.
- (b) For the purpose of paragraph (a)(i) above, a "reorganisation" shall include a company reorganisation (Sw. *företagsrekonstruktion*) pursuant to the Swedish Reorganisation Act (Sw. *lag (1996:764) om företagsrekonstruktion*).
- (c) Paragraph (a) above shall not apply to any proceedings which are contested in good faith and discharged, stayed or dismissed within 20 Business Days of commencement.

### 28.7 Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a Material Company exceeding an aggregate value of EUR 35,000,000 or its equivalent, unless such process is either being contested in good faith and/or shown as frivolous or vexatious and is discharged within 20 Business Days after commencement.

### 28.8 Unlawfulness and invalidity

- (a) It is or becomes unlawful for an Obligor to perform any of its material obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective and this individually or



cumulatively, materially and adversely affects the interests of the Lenders taken as a whole under the Finance Documents.

- (b) Subject to the Legal Reservations and Perfection Requirements, any material obligation or obligations of any Obligor under any Finance Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively, materially and adversely affects the interests of the Lenders taken as a whole under the Finance Documents.
- (c) No Event of Default under paragraphs (a) and (b) above will occur if the issue is capable of being remedied and is remedied within 20 Business Days of the earlier of Listco becoming aware of the issue or being given written notice of the issue by the Agent.

#### **28.9 Intercreditor Agreement**

Any party (other than (i) a Finance Party or (ii) a member of the Group) fails to comply with the provisions of, or does not perform its obligations under, the Intercreditor Agreement or a representation or warranty given by that party in the Intercreditor Agreement is incorrect in any material respect, and, if the non-compliance or circumstances giving rise to the misrepresentation are capable of remedy, it is not remedied within 20 Business Days of the earlier of the Agent giving written notice to that party or that party becoming aware of the non-compliance or misrepresentation.

#### **28.10 Cessation of business**

The Group taken as a whole suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

#### **28.11 Audit qualification**

The Auditors of the Group qualify the audited annual consolidated financial statements of Listco in a way which has a Material Adverse Effect.

#### **28.12 Repudiation and rescission of agreements**

An Obligor rescinds or purports to rescind or repudiates or evidences an intention to repudiate a Finance Document or evidences an intention to rescind or repudiate a Finance Document in any way which is materially adverse to the interest of the Lenders under that Finance Document taken as a whole.

#### **28.13 Material adverse change**

Any event or circumstance occurs which has a Material Adverse Effect.

#### **28.14 Unsatisfied judgment**

Any Obligor fails to pay a final judgment against it and that failure to pay has a Material Adverse Effect.

#### **28.15 Tax status**

A notice under Article 36 of the Tax Collection Act (*Invoeringswet 1990*) has been given by any member of the Group.

#### **28.16 Acceleration**

- (a) On and at any time after the occurrence of an Event of Default under paragraph (a) of that definition which is continuing, other than an Event of Default referred to in clause (c) below, the Agent may, and shall if so directed by the Majority Lenders, by notice to Listco:



- (i) cancel the Total Commitments and/or Ancillary Commitments, at which time they shall immediately be cancelled;
  - (ii) declare that all or part of the Utilisations, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, at which time they shall become immediately due and payable;
  - (iii) declare that all or part of the Utilisations be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders;
  - (iv) declare that cash cover in respect of each Letter of Credit is immediately due and payable, at which time it shall become immediately due and payable;
  - (v) declare that cash cover in respect of each Letter of Credit is payable on demand, at which time it shall immediately become due and payable on demand by the Agent on the instructions of the Majority Lenders;
  - (vi) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and payable, at which time they shall become immediately due and payable;
  - (vii) declare that all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders; and/or
  - (viii) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers and/or discretions under the Finance Documents.
- (b) Subject to the terms of the Intercreditor Agreement, on and at any time after the occurrence of an Event of Default under paragraph (b) of that definition which is continuing, the Agent may, and shall if so directed by the Majority RCF Lenders by notice to Listco:
- (i) cancel the Total Revolving Facility Commitments and/or Ancillary Commitments, at which time they shall immediately be cancelled;
  - (ii) declare that all or part of the Revolving Facility Utilisations, together with accrued interest, and all other amounts accrued or outstanding under the Revolving Facility be immediately due and payable, at which time they shall become immediately due and payable;
  - (iii) declare that all or part of the Revolving Facility Utilisations be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority RCF Lenders;
  - (iv) declare that cash cover in respect of each Letter of Credit is immediately due and payable, at which time it shall become immediately due and payable;
  - (v) declare that cash cover in respect of each Letter of Credit is payable on demand, at which time it shall immediately become due and payable on demand by the Agent on the instructions of the Majority RCF Lenders;



- (vi) declare all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities to be immediately due and payable, at which time they shall become immediately due and payable;
  - (vii) declare that all or any part of the amounts (or cash cover in relation to those amounts) outstanding under the Ancillary Facilities be payable on demand, at which time they shall immediately become payable on demand by the Agent on the instructions of the Majority RCF Lenders; and/or
  - (viii) exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.
- (c) If an Event of Default occurs under paragraph (a)(v) of Clause 28.6 (*Insolvency proceedings*) or paragraph (a)(vi) of Clause 28.6 (*Insolvency proceedings*):
- (i) the Total Commitments and Ancillary Commitments shall immediately be cancelled;
  - (ii) all of the Utilisations, together with accrued interest and all other amounts accrued under the Finance Documents, shall be immediately due and payable;
  - (iii) cash cover in respect of each Letter of Credit shall be immediately due and payable; and
  - (iv) all amounts (or cash cover in relation to those amounts) outstanding under an Ancillary Facility shall be immediately due and payable,

in each case automatically and without any direction, notice, declaration or other act and (in addition) the Security Agent may exercise any or all of its rights, remedies, powers and/or discretions under the Finance Documents.

#### **28.17 Clean-Up Period**

Notwithstanding any other provision of this Agreement, in relation to any Permitted Acquisition under paragraphs (d) and (e) of the definition of 'Permitted Acquisition', any Default or Event of Default which is a Clean-Up Default will be deemed not to be a breach of representation, warranty or undertaking, or a Default or an Event of Default (as the case may be) for the duration of the relevant Clean-Up Period if:

- (a) it would have been (if it were not for this provision) a breach of representation, warranty or undertaking or a Default or an Event of Default only by reason of circumstances relating exclusively to a member of the Acquired Group of such Permitted Acquisition (or any obligation to procure or ensure in relation to a member of that Acquired Group);
- (b) it is capable of remedy and reasonable steps are being taken to remedy it;
- (c) the circumstances giving rise to it have not be procured by or approved by a member of the Group;
- (d) it is not reasonably likely to have a Material Adverse Effect; and
- (e) it does not exist at the end of the Clean-Up Period,

provided that, notwithstanding the above, if the relevant circumstances are continuing on or after the end of the Clean-Up Period, there shall be an Event of Default.



#### 28.18 Operation of Clause 27 (*General undertakings*)

- (a) When establishing whether any action, transaction and/or incurrence of a liability is permitted under the terms of the Finance Documents by reference to LTM EBITDA, the Group shall be entitled to rely on the fact that such action, transaction and/or incurrence was permitted by reference to LTM EBITDA at the time that action was originally taken, that transaction was originally committed to or that liability was originally incurred (as the case may be) assuming that is the case and, to the extent so permitted, no subsequent change in Consolidated EBITDA shall in and of itself cause such action, transaction and/or incurrence to constitute or be deemed to constitute or result in a breach of any representation, warranty, undertaking or other term of the Finance Documents or a Default or an Event of Default.
- (b) Notwithstanding any term of any Finance Document to the contrary, any Financial Indebtedness incurred by reference to LTM EBITDA may be refinanced, replaced, renewed or extended, notwithstanding any subsequent change in Consolidated EBITDA, provided that the principal amount of such Financial Indebtedness is not increased (other than as represents the fees, costs and expenses for such financing, replacement, renewal or extension) and the maturity date is the same or longer as that applicable to the Financial Indebtedness being refinanced, replaced, renewed or extended.
- (c) A certificate from Listco confirming that the Debt Cover Condition is satisfied shall be *prima facie* evidence thereof. If at any time after the Debt Cover Condition has been satisfied the Debt Cover Condition ceases to be satisfied, any breach of the Finance Documents that arises as a result of any of the obligations, restrictions or other terms referred to in Clause 27.35 (*Covenant suspension/relaxation*) ceasing to be construed or suspended in the manner described in that Clause shall not (provided that it did not constitute a Default or an Event of Default at the time the relevant action, transaction or incurrence was entered into) constitute or be deemed to constitute or result in a breach of any representation, warranty, undertaking or other term of the Finance Documents or a Default or an Event of Default.



**SECTION 9**  
**CHANGES TO PARTIES**

**29. CHANGES TO THE LENDERS**

**29.1 Assignments and transfers by the Lenders**

(a) Subject to this Clause 29, a Lender (the "**Existing Lender**") may:

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

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

**29.2 Conditions of assignment or transfer**

(a) Listco must be consulted before an assignment or transfer by an Existing Lender, unless the assignment or transfer is:

- (i) to another Lender or an Affiliate of a Lender; or
- (ii) to a fund within the same investor group as the fund which is the Existing Lender (including, for the avoidance of doubt, to any Related Fund); or
- (iii) by an Original Lender in the course of syndication of Facility B3, Facility B4, Facility B5, Facility B6 and/or Facility B7.

(b) Each assignment or transfer of part of any Lender's participation shall (when aggregated with related assignments and transfers, including with its Affiliates and Related Funds) be in a minimum amount of:

- (i) EUR 1,000,000 or US\$1,000,000 as applicable in aggregate in respect of Commitments under a Term Facility (or, if less, all of that Lender's remaining Commitments under that Facility); or
- (ii) EUR 1,000,000 (or its equivalent) in aggregate in respect of Commitments under the Revolving Facility (or, if less, all of that Lender's remaining Commitments under that Facility),

or, in relation to any Original Revolving Facility Commitment such lower amount as may be agreed by Listco in connection with the provision of an Ancillary Facility.

(c) The consent of any applicable Issuing Bank is required for any assignment or transfer by an Existing Lender of any of its rights and/or obligations under a Revolving Facility.

(d) An assignment will only be effective on:

- (i) receipt by the Agent of written confirmation from the New Lender (in form and substance satisfactory to the Agent) that the New Lender will assume the same obligations to the other Finance Parties and the other Secured Parties as it would have been under if it was an Existing Lender;
- (ii) the New Lender entering into a Creditor/Agent Accession Undertaking (as defined in the Intercreditor Agreement);



- (iii) the performance by the Agent of all "know your customer" or other checks relating to any person that it is required to carry out in relation to such assignment to a New Lender, the completion of which the Agent shall promptly notify to the Existing Lender and the New Lender; and
- (iv) receipt by Listco of the notice required by Clause 18.5 (*Lender status confirmation*).
- (e) A transfer will only be effective if the New Lender enters into a Creditor/Agent Accession Undertaking (as defined in the Intercreditor Agreement) and if the procedure set out in Clause 29.6 (*Procedure for transfer*) is complied with.
- (f) If (other than in the course of syndication of Facility B3 and/or Facility B4 and/or Facility B5 and/or Facility B6 and/or Facility B7):
  - (i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and
  - (ii) as a result of circumstances existing at the date the assignment a transfer or change occurs, an Obligor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 18 (*Tax gross-up and indemnities*) or Clause 19.1 (*Increased Costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

- (g) If the Existing Lender has consented to an amendment or waiver request which is outstanding at the time of assignment or transfer, the transfer may only be made if the New Lender has also consented to that request.

### **29.3 Assignment or transfer fee**

Unless the Agent otherwise agrees and excluding an assignment or transfer to an Affiliate of a Lender or made in connection with primary syndication of the Facilities, the New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Agent (for its own account) a fee of (in the case of any Euro Denominated Facility) EUR 1,500 or (in the case of any US\$ Denominated Facility) US\$1,500.

### **29.4 Preservation of Security Interests**

Each Party to this Agreement hereby expressly accepts and confirms, for the purpose of articles 1278 and 1281 of the Luxembourg Civil Code, that notwithstanding any assignment, transfer and/or novation permitted under, and made in accordance with the provisions of this Agreement, any and all Security and guarantees granted under or given in connection with the Finance Documents to which such Party is a party shall be preserved for the benefit of any assignee, transferee or successor.

### **29.5 Limitation of responsibility of Existing Lenders**

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:



- (i) the legality, validity, effectiveness, adequacy or enforceability of the Transaction Documents, the Transaction Security or any other documents;
  - (ii) the financial condition of any Obligor;
  - (iii) the performance and observance by any Obligor or any other member of the Group of its obligations under the Transaction Documents or any other documents; or
  - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Transaction Document or any other document,
- and any representations or warranties implied by law are excluded.
- (b) Each New Lender confirms to the Existing Lender, the other Finance Parties and the Secured Parties that it:
- (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender or any other Finance Party in connection with any Transaction Document or the Transaction Security; and
  - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.
- (c) Nothing in any Finance Document obliges an Existing Lender to:
- (i) accept a retransfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 29; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Transaction Documents or otherwise.

#### **29.6 Procedure for transfer**

- (a) Subject to the conditions set out in Clause 29.2 (*Conditions of assignment or transfer*), a transfer is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Transfer Certificate and Lender Accession Undertaking delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate and Lender Accession Undertaking appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate and Lender Accession Undertaking.
- (b) The Agent shall only be obliged to execute a Transfer Certificate and Lender Accession Undertaking delivered to it by the Existing Lender and the New Lender once it is satisfied it has complied with all necessary "know your customer" or similar other checks under all applicable laws and regulations in relation to the transfer to such New Lender.
- (c) On the Transfer Date:



- (i) to the extent that, in the Transfer Certificate and Lender Accession Undertaking, the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents and in respect of the Transaction Security, each of the Obligors and other members of the Group party to any Finance Document or the Transaction Security and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and in respect of the Transaction Security and their respective rights against one another under the Finance Documents and in respect of the Transaction Security shall be cancelled (being the "**Discharged Rights and Obligations**");
  - (ii) each of the Obligors and other members of the Group party to any Finance Document and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor or other member of the Group and the New Lender have assumed and/or acquired the same in place of that Obligor and the Existing Lender;
  - (iii) the Agent, the Arrangers, the Security Agent, the New Lender, the other Lenders, the Issuing Bank and any relevant Ancillary Lender shall acquire the same rights and assume the same obligations between themselves and in respect of the Transaction Security as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and, to that extent, the Agent, the Arrangers, the Security Agent, the Issuing Bank and any relevant Ancillary Lender and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and
  - (iv) the New Lender shall become a Party as a "Lender".
- (d) At the request of the Agent or the New Lender, the New Lender and the Existing Lender shall promptly raise the duly completed Transfer Certificate and Lender Accession Undertaking to the status of Spanish Public Document in the form of "*escritura pública*".
- (e) For the avoidance of doubt, the Parties agree that a transfer effected in accordance with this Clause 29.6 shall constitute a novation within the meaning of articles 1271 et seq. of the French *Code Civil*, provided that, notwithstanding any such novation, all the rights (including in relation to Transaction Security) of the Secured Parties against the Obligors shall be maintained.

#### **29.7 Copy of Transfer Certificate and Lender Accession Undertaking to Listco**

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate and Lender Accession Undertaking, send to Listco a copy of that Transfer Certificate and Lender Accession Undertaking.

#### **29.8 Security Interests over Lenders' rights**

In addition to the other rights provided to Lenders under this Clause 29, each Lender may at any time create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender, including, without limitation:

- (a) any Security to secure obligations to a federal reserve or central bank; and



- (b) in the case of any Lender which is a fund, any Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such Security shall:

- (i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant Security for the Lender as a party to any of the Finance Documents; or
- (ii) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

### 29.9 Sub-participations

The Lenders may enter into any sub-participations or other arrangements by which a third party acquires direct or indirect commercial control over a Lender's rights and/or obligations under this Agreement provided that Listco must be consulted where a third party is to acquire direct or indirect commercial control over a Lender's voting rights under this Agreement.

### 29.10 Lender Accession Notice

Each Lender which executes a Lender Accession Notice confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which such person becomes Party to this Agreement and that it is bound by that decision to the same extent as it would have been had it been a Lender under this Agreement at the relevant time of such amendment or waiver being approved.

### 29.11 Replacement of Lenders

- (a) If at any time any Lender or the Issuing Bank becomes an Affected Lender or Non-Consenting Lender, then Listco may, on 10 Business Days' prior written notice to the Agent and that Lender or Issuing Bank (as the case may be and unless Listco and the Agent agree to a longer time period in relation to any request), replace that Lender or Issuing Bank by causing it to, and that Lender or Issuing Bank shall, by execution of a Transfer Certificate and Lender Accession Undertaking within that 10-Business Day, period transfer all of its rights and obligations under this Agreement to a Lender or other entity designated by Listco for a purchase price equal to that Lender's or Issuing Bank's participations in the Utilisations then outstanding, in either case with all accrued interests, fees and other amounts payable to that Lender or Issuing Bank under this Agreement or any Ancillary Document.

- (b) For the purposes of this Clause 29.11:

**"Affected Lender"** means a Lender or Issuing Bank in respect of which a Borrower or Listco is at that time entitled to serve a notice under Clause 11.6 (*Right of cancellation and repayment in relation to a single Lender or Issuing Bank*) or whose rights and obligations under this Agreement would, but for this Clause 29.11, be cancelled pursuant to Clause 11.1 (*Illegality*) or 11.2 (*Illegality in relation to an Issuing Bank*); and

**"Non-Consenting Lender"** means any Lender which does not agree to consent to any waiver or amendment of any provision of the Finance Documents which has been requested by Listco or



any other Obligor where the requested amendment or waiver has been approved by the Majority Lenders and requires the consent of more than the Majority Lenders.

- (c) This Clause 29.11 shall not apply to a Listco Affiliate (unless the Majority Lenders otherwise agree).

#### **29.12 Lender Affiliates**

- (a) A Lender may nominate a branch or Affiliate to discharge its obligations to participate in one or more Utilisations:
  - (i) in this Agreement;
  - (ii) in the Transfer Certificate and Lender Accession Undertaking pursuant to which such Lender becomes a Party; or
  - (iii) in a written notice from such Lender (in form and substance satisfactory to the Agent and Listco, each acting reasonably) delivered to the Agent and Listco not less than two Business Days prior to the Utilisation Date for that Utilisation.
- (b) Any branch or Affiliate nominated by a Lender to participate in a Utilisation shall:
  - (i) participate therein in compliance with the terms of this Agreement;
  - (ii) be entitled, to the extent of its participation, to all the rights and benefits of a Lender under the Finance Documents provided that such rights and benefits shall be exercised on its behalf by its nominating Lender save where law or regulation requires the branch or Affiliate to do so; and
  - (iii) in the case of an Affiliate, become party to the Intercreditor Agreement.
- (c) Each Lender shall remain liable and responsible for the performance of all obligations assumed by a branch or Affiliate on its behalf and non-performance of a Lender's obligations by its branch or Affiliate shall not relieve such Lender from its obligations under this Agreement.
- (d) No Obligor shall be liable to pay any amount otherwise required to be paid by an Obligor under Clause 18 (*Tax gross-up and indemnities*) or Clause 19 (*Increased costs*) in excess of the amount it would have been obliged to pay if that Lender had not nominated its branch or Affiliate to participate in the relevant Facility or, to the extent that such Lender nominated such branch or Affiliate for a particular Utilisation, in excess of the amount which it would have been obliged to pay had that Lender continued to make that particular Utilisation. Each Lender shall promptly notify the Agent and Listco of the jurisdiction of tax residence from which its branch or Affiliate will participate in the relevant Facility or Utilisations and such other information regarding that branch or Affiliate as Listco may reasonably request.
- (e) Any notice or communication to be made to a branch or an Affiliate of a Lender pursuant to Clause 37 (*Notices*):
  - (i) may be served directly upon the branch or Affiliate, at the relevant address supplied to the Agent by the nominating Lender, where the Lender or the relevant branch or Affiliate requests this in order to mitigate any legal obligation to deduct withholding Tax from any payment to such branch or Affiliate or any payment obligation which might otherwise arise pursuant to Clause 19 (*Increased costs*); or



- (ii) in any other circumstance, may be delivered to the address for the Lender provided pursuant to Clause 37 (*Notices*).
- (f) If a Lender nominates an Affiliate, that Lender and that Affiliate:
- (i) will be treated as having a single Commitment under the relevant Facility (being the Commitment of that Lender) but for all other purposes (other than those referred to in paragraphs (c) and (e)(ii) above and paragraph (ii) below) will be treated as separate Lenders; and
  - (ii) will be regarded as a single Lender for the purpose of:
    - (A) voting in relation to any matter in connection with a Finance Document; and
    - (B) compliance with Clause 29.1 (*Assignments and transfers by the Lenders*); and
    - (C) Clause 18 (*Tax gross-up and indemnities*) and Clause 19 (*Increased costs*), which shall apply as if the relevant Affiliate had become a Lender on the date on which it is nominated.

### 30. DEBT PURCHASE TRANSACTIONS

#### 30.1 Debt Purchase Transactions

- (a) Listco shall not and shall ensure that no Obligor or other member of the Group shall (i) enter into any Debt Purchase Transaction other than by a Borrower of the relevant Facility to which that Debt Purchase Transaction relates in accordance with the other provisions of this Clause 30 or (ii) beneficially own all or any part of the share capital of a company that is a Lender or a party to, or itself be a Lender or a party to, a Debt Purchase Transaction of the type referred to in paragraphs (b) or (c) of the definition of 'Debt Purchase Transaction'.
- (b) A Borrower of the relevant Facility to which that Debt Purchase Transaction relates may purchase by way of assignment, pursuant to Clause 29 (*Changes to the Lenders*), a participation in any Term Loan in respect of which it is the Borrower and any related Commitment in accordance with paragraph (e) below or where:
  - (i) such purchase is made for a consideration of par or less than par;
  - (ii) such purchase is made using one of the processes set out at paragraphs (c) or (d) below;
  - (iii) such purchase is made at a time when no Default is continuing; and
  - (iv) the consideration for such purchase is funded from (1) Retained Cash (2) an amount which would otherwise be available to be, and is at that time permitted to be, paid in cash to shareholders of Listco or (3) New Equity or Subordinated Debt received after the Closing Date.
- (c)
  - (i) A Debt Purchase Transaction referred to in paragraph (b) above may be entered into pursuant to a solicitation process (a "**Solicitation Process**") which is carried out as follows.
  - (ii) Prior to 11.00 am on a given Business Day (the "**Solicitation Day**") the relevant Borrower or a financial institution acting on its behalf (the "**Purchase Agent**") will



approach at the same time each Lender which participates in the relevant Term Facilities to enable them to offer to sell to the relevant Borrower(s) an amount of their participation in one or more Term Facilities. Any Lender wishing to make such an offer shall, by 11.00 am on the second Business Day following such Solicitation Day, communicate to the Purchase Agent details of the amount of its participations, and in which Term Facilities, it is offering to sell and the price at which it is offering to sell such participations. Any such offer shall be irrevocable until 11.00 am on the third Business Day following such Solicitation Day and shall be capable of acceptance by Listco on behalf of the relevant Borrower(s) on or before such time by communicating its acceptance in writing to the Purchase Agent or, if it is the Purchase Agent, the relevant Lenders. The Purchase Agent (if someone other than Listco) will communicate to the relevant Lenders which offers have been accepted by 12 noon on the third Business Day following such Solicitation Day. In any event by 11.00 am on the fourth Business Day following such Solicitation Day, Listco shall notify the Agent of the amounts of the participations purchased through the relevant Solicitation Process, the identity of the Term Facilities to which they relate and the average price paid for the purchase of participations in each relevant Term Facility. The Agent shall disclose such information to any Lender that requests such disclosure.

- (iii) Any purchase of participations in the Term Facilities pursuant to a Solicitation Process shall be completed and settled on or before the fifth Business Day after the relevant Solicitation Day.
  - (iv) In accepting any offers made pursuant to a Solicitation Process Listco shall be free to select which offers and in which amounts it accepts but on the basis that in relation to a participation in a particular Term Facility it accepts offers in inverse order of the price offered (with the offer or offers at the lowest price being accepted first) and that if in respect of participations in a particular Term Facility it receives two or more offers at the same price it shall only accept such offers on a pro rata basis.
- (d)
- (i) A Debt Purchase Transaction referred to in paragraph (b) above may also be entered into pursuant to an open order process (an "**Open Order Process**") which is carried out as follows.
  - (ii) Listco (on behalf of the relevant Borrower) may by itself or through another Purchase Agent place an open order (an "**Open Order**") to purchase participations in one or more of the Term Facilities up to a set aggregate amount at a set price by notifying at the same time all the Lenders participating in the relevant Term Facilities of the same. Any Lender wishing to sell pursuant to an Open Order will, by 11.00 am on any Business Day following the date on which the Open Order is placed but no earlier than the first Business Day, and no later than the fifth Business Day, following the date on which the Open Order is placed, communicate to the Purchase Agent details of the amount of its participations, and in which Term Facilities, it is offering to sell. Any such offer to sell shall be irrevocable until 11.00 am on the Business Day following the date of such offer from the Lender and shall be capable of acceptance by Listco on behalf of the relevant



- Borrower(s) on or before such time by it communicating such acceptance in writing to the relevant Lender.
- (iii) Any purchase of participations in the Term Facilities pursuant to an Open Order Process shall be completed and settled by Midco on or before the fourth Business Day after the date of the relevant offer by a Lender to sell under the relevant Open Order.
  - (iv) If in respect of participations in a Term Facility the Purchase Agent receives on the same Business Day two or more offers at the set price such that the maximum amount of such Term Facility to which an Open Order relates would be exceeded, Listco shall only accept such offers on a pro rata basis.
  - (v) Listco shall, by 11.00 am on the sixth Business Day following the date on which an Open Order is placed, notify the Agent of the amounts of the participations purchased through such Open Order Process and the identity of the Term Facilities to which they relate. The Agent shall disclose such information to any Lender that requests the same.
- (e) For the avoidance of doubt, there is no limit on the number of occasions a Solicitation Process or an Open Order Process may be implemented.
- (f) In relation to any Debt Purchase Transaction entered into pursuant to this Clause 30, notwithstanding any other term of this Agreement or the other Finance Documents:
- (i) on completion of the relevant Debt Purchase Transaction, the portions of the Loans to which it relates shall (unless Listco confirms in a certificate to the Agent dated on or prior to the date of such Debt Purchase Transaction that there would be a material adverse tax impact on the Group as a result of such cancellation) be extinguished;
  - (ii) such Debt Purchase Transaction and the related extinguishment referred to in paragraph (i) above shall not constitute a prepayment of the Facilities;
  - (iii) for the purposes of the calculation of Consolidated EBITDA and testing compliance with the financial covenant in Clause 26 (*Financial covenant*) any impact of a Debt Purchase Transaction on Consolidated EBITDA shall be ignored;
  - (iv) the Borrower which is the assignee shall be deemed to be an entity which fulfils the requirements of Clause 29.1 (*Assignments and transfers by the Lenders*) to be a New Lender;
  - (v) no member of the Group shall be deemed to be in breach of any provision of Clause 27 (*General undertakings*) solely by reason of such Debt Purchase Transaction;
  - (vi) Clause 34 (*Sharing among the Finance Parties*) shall not be applicable to the consideration paid under such Debt Purchase Transaction;
  - (vii) for the avoidance of doubt, any extinguishment of any part of the Term Loans shall not affect any amendment or waiver which prior to such extinguishment had been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement;
  - (viii) no member of the Group which entered into a Debt Purchase Transaction will be entitled to receive any payment pursuant to this Agreement or any other Finance Document unless it receives such amount pro rata with all other Lenders in the relevant Facility;



- (ix) any amount received by any member of the Group which has entered into a Debt Purchase Transaction (including, without limitation, the proceeds of any enforcement of security) shall be held on trust for distribution to the other Finance Parties and such member of the Group shall promptly (and in any event within 5 Business Days) pay an amount equal to that amount to the Agent for application in accordance with Clause 35.5 (*Partial payments*) (ignoring for the purposes of such application any member of the Group); and
- (x) no member of the Group which participates in a Debt Purchase Transaction shall be permitted to sell, transfer, assign, sub-participate or otherwise dispose of the subject matter of that Debt Purchase Transaction and Clause 30.2 (*Disenfranchisement on Debt Purchase Transactions*) shall apply.

### **30.2 Disenfranchisement on Debt Purchase Transactions**

- (a) For so long as a Listco Affiliate or a member of the Group:

- (i) has entered into a Debt Purchase Transaction;
- (ii) beneficially owns a Commitment; or
- (iii) has entered into a sub-participation agreement relating to a Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated,

in ascertaining the Majority Lenders or the Super Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments or the agreement of any specified group of Lenders has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents such Commitment shall be deemed to be zero and such member of the Group or Listco Affiliate or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Lender (other than for the purposes of this Clause 30.2).

- (b) Each Lender shall, unless such Debt Purchase Transaction is an assignment or transfer, promptly notify the Agent in writing if it knowingly enters into a Debt Purchase Transaction with a Listco Affiliate or a member of the Group (a "**Notifiable Debt Purchase Transaction**"), such notification to be substantially in the form set out in Part I of Schedule 15 (*Forms of Notifiable Debt Purchase Transaction Notice*).
- (c) A Lender shall promptly notify the Agent if a Notifiable Debt Purchase Transaction to which it is a party is terminated, or ceases to be with a Listco Affiliate or a member of the Group, such notification to be substantially in the form set out in Part II of Schedule 15 (*Forms of Notifiable Debt Purchase Transaction Notice*).
- (d) Each Listco Affiliate and each member of the Group that is a Lender agrees that:
  - (i) in relation to any meeting or conference call to which all the Lenders are invited to attend or participate, it shall not attend or participate in the same if so requested by the Agent or, unless the Agent otherwise agrees, be entitled to receive the agenda or any minutes of the same; and



- (ii) in its capacity as Lender, unless the Agent otherwise agrees, it shall not be entitled to receive any report or other document prepared at the behest of, or on the instructions of, the Agent or one or more of the Lenders.

### **31. CHANGES TO THE OBLIGORS**

#### **31.1 Assignment and transfers by Obligors**

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

#### **31.2 Additional Borrowers**

- (a) Subject to compliance with the provisions of paragraphs (c) and (d) of Clause 25.9 ("*Know your customer*" checks), Listco may request that it or any of its Subsidiaries (other than Bondco) becomes an Additional Borrower. Listco or that Subsidiary (as applicable) shall become an Additional Borrower if:

- (i) in relation to the Revolving Facility, it is incorporated in the United Kingdom, the British Virgin Islands, Germany, Austria, France, the Netherlands, Ireland, Denmark or the US; or
- (ii) all the Lenders (calculated, for this purpose, as if that definition only included Lenders under the respective Facility to which the respective Borrower wishes to accede), acting reasonably, approve the addition of that Subsidiary for the purposes of the relevant Facility,

and (in each case):

- (A) Listco and (as applicable) that Subsidiary deliver to the Agent a duly completed and executed Accession Letter (which shall, in the case of the first Borrower to accede in any jurisdiction in which there is not a Borrower as at the Closing Date, contain any relevant 'Qualifying Lender' language for that jurisdiction, in such form as is agreed between Listco and the Agent);
  - (B) Listco (or as applicable) the Subsidiary is (or becomes) a Guarantor prior to becoming a Borrower;
  - (C) Listco confirms that no Default is continuing or would occur as a result of it (or as applicable) that Subsidiary becoming an Additional Borrower; and
  - (D) the Agent has received all of the documents and other evidence listed in Part III of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*) in relation to that Additional Borrower, each in form and substance satisfactory to the Agent, acting reasonably.
- (b) The Agent shall notify Listco and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part III of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*) in relation to such Additional Borrower.

#### **31.3 Resignation of a Borrower**

- (a) In this Clause 31.3, Clause 31.5 (*Resignation of a Guarantor*) and Clause 31.7 (*Resignation and release of Security on disposal*), "**Third Party Disposal**" means the disposal of an Obligor to a



person which is not a member of the Group where that disposal is permitted under Clause 27.13 (*Disposals*) (and Listco confirms in writing to the Agent and the Security Agent to that effect).

- (b) Listco may request that any Borrower (other than Midco or Luxco) ceases to be a Borrower by delivering to the Agent a Resignation Letter.
- (c) The Agent shall accept a Resignation Letter and notify Listco and the other Finance Parties of its acceptance if:
  - (i) Listco has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;
  - (ii) the Borrower is under no actual or contingent obligations as a Borrower under any Finance Document; and
  - (iii) if the Borrower ceases to be a Borrower in connection with a Third Party Disposal, Listco has confirmed that it shall ensure that any relevant Disposal Proceeds will be applied in accordance with Clause 12.3 (*Application of mandatory prepayments*) to the extent required.
- (d) Upon notification by the Agent to Listco of its acceptance of the resignation of a Borrower, that company shall cease to be a Borrower and shall have no further rights or obligations under the Finance Documents as a Borrower.

#### **31.4 Additional Guarantors**

- (a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 25.9 (*"Know your customer" checks*), Listco may request that any of its Subsidiaries become an Additional Guarantor.
- (b) A member of the Group shall become an Additional Guarantor if:
  - (i) Listco and the proposed Additional Guarantor deliver to the Agent a duly completed and executed Accession Letter;
  - (ii) the Agent has received all of the documents and other evidence listed in Part III of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*) in relation to that Additional Guarantor, each in form and substance satisfactory to the Agent; and
  - (iii) it grants Security (and Security is granted over its shares) in accordance with and if required by the Security Principles.
- (c) The Agent shall notify Listco and the Lenders promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and other evidence listed in Part III of Schedule 2 (*Conditions Precedent required to be delivered by an Additional Obligor*) in relation to such Subsidiary.

#### **31.5 Resignation of a Guarantor**

- (a) Listco may request that a Guarantor (other than a Nomad Holdco or, other than as a result of a Permitted Disposal to a non-Group company, a Material Company) ceases to be a Guarantor by delivering to the Agent a Resignation Letter if:
  - (i)



- (A) that Guarantor is being disposed of by way of a Third Party Disposal (as defined in Clause 31.3 (*Resignation of a Borrower*)) and Listco has confirmed this is the case; or
  - (B) that Guarantor is not a Material Company (for this purpose, without giving effect to paragraph (i) of Clause 27.35 (*Covenant suspension/relaxation*)) and the Guarantor Coverage test set out in Clause 27.29 (*Guarantors*) is, taking into account the resignation of the relevant Guarantor, still met; or
- (ii) the Super Majority Lenders have consented to the resignation of that Guarantor.
- (b) The Agent shall accept a Resignation Letter and notify Listco and the Lenders of its acceptance if:
- (i) Listco has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;
  - (ii) no payment is due from the Guarantor under Clause 23.1 (*Guarantee and indemnity*);
  - (iii) where the Guarantor is also a Borrower, it is under no actual or contingent obligations as a Borrower and has resigned and ceased to be a Borrower under Clause 31.3 (*Resignation of a Borrower*);
  - (iv) Listco has confirmed that such Guarantor has ceased to be a guarantor and has ceased to provide any other credit support in relation to any Senior Secured Notes and any New Debt Financing; and
  - (v) if the Guarantor ceases to be a Guarantor in connection with a Third Party Disposal, Listco has confirmed that it shall ensure that the Disposal Proceeds will be applied in accordance with Clause 12.3 (*Application of mandatory prepayments*) to the extent required.
- (c) Upon notification by the Agent to Listco of its acceptance of the resignation of a Guarantor, that company shall cease to be a Guarantor and shall have no further obligations under the Finance Documents as a Guarantor.

### **31.6 Repetition of representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Subsidiary that the representations and warranties referred to in paragraph (d) of Clause 24.22 (*Times when representations made*) are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

### **31.7 Resignation and release of Security on disposal**

- (a) If a Guarantor resigns in accordance with the terms of this Agreement, then:
- (i) where that Guarantor created Transaction Security over any of its assets or business in favour of the Security Agent, or Transaction Security in favour of the Security Agent was created over the shares (or equivalent) of that Guarantor, the Security Agent shall, at the cost and request of Listco, release those assets, business or shares (or equivalent) and issue, where applicable, certificates of non-crystallisation;
  - (ii) the resignation of that Guarantor and related release of Transaction Security referred to in paragraph (i) above shall not become effective until the date of resignation; and



- (iii) in the case of resignation in connection with a disposal, if the relevant disposal of that Guarantor is not made, the Resignation Letter of that Guarantor and the related release of Transaction Security referred to in paragraph (i) above shall have no effect and the obligations of the Guarantor and the Transaction Security created or intended to be created by or over that Guarantor shall continue in full force and effect.
- (b) If an Obligor disposes of any asset as expressly permitted by and in accordance with the terms of this Agreement (and Listco confirms in writing to the Agent and the Security Agent to that effect) and such asset is the subject of Transaction Security in favour of the Security Agent, the Security Agent shall, at the cost and request of Listco, release those assets and issue certificates of non-crystallisation.
- (c) If an Obligor wishes to enter into any netting or set-off arrangements of a kind described in paragraph (b) of the definition of 'Permitted Security' and is required to grant Security over the bank accounts which are the subject of that arrangement and/or its rights under any agreement governing or administering that arrangement and such assets (including any such rights) are the subject of Transaction Security in favour of the Security Agent, then the Security Agent shall, at the cost and request of Listco, release those assets and issue certificates of non-crystallisation, provided, however, that the applicable Obligor shall consult with the Security Agent as to whether any replacement Transaction Security in favour of the Security Agent may be granted over those assets without adversely affecting the commercial arrangement in relation to the desired netting or set-off arrangements (and, if the Obligor and the Security Agent agree (each acting reasonably and in good faith), such replacement Transaction Security shall be granted by the relevant Obligor in favour of the Security Agent, subject to the Security Principles).



**SECTION 10**  
**THE FINANCE PARTIES**

**32. ROLE OF THE AGENT, THE ARRANGERS, THE ISSUING BANK AND OTHERS**

**32.1 Appointment of the Agent**

- (a) Each of the Arrangers, the Lenders and the Issuing Bank appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Arrangers, the Lenders and the Issuing Bank authorises the Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.
- (c) In connection with the ratification and raising of any Finance Document into the status of a Spanish Public Document, the Agent shall act as the agent and representative of each Finance Party and is hereby authorised on behalf of each Finance Party to enter into, enforce the rights of each Finance Party and represent each Finance Party in respect of the granting of any Spanish Public Document.
- (d) Notwithstanding the above, the Agent, acting at its discretion and to the extent reasonably possible, may invite the Finance Parties to enter into and/or to enforce the rights of each Finance Document (including any Security Document governed by Spanish law) jointly with the Agent. For the avoidance of doubt, the provision above does not grant any right to the Finance Parties to enter into and/or to enforce the rights under each Finance Document (including any Security Document governed by Spanish law) jointly with the Agent.

**32.2 Duties of the Agent**

- (a) Subject to paragraph (b) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (b) Without prejudice to Clause 29.7 (*Copy of Transfer Certificate and Lender Accession Undertaking to Listco*), paragraph (a) above shall not apply to any Transfer Certificate and Lender Accession Undertaking.
- (c) 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.
- (d) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.
- (e) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Agent, the Arrangers or the Security Agent) under this Agreement, it shall promptly notify the other Finance Parties.
- (f) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.
- (g) Neither the Agent nor the Security Agent shall have any duty or be under any obligation or responsibility to review or check the adequacy, accuracy or completeness, or otherwise monitor



the application of (including the occurrence of any default or termination event under or in respect of), any Lender Accession Notice, Additional Facility Notice, Additional Facility Document or any information provided by an Additional Facility Lender.

- (h) The Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).
- (i) In connection with the ratification and raising of any Finance Document into a Spanish Public Document, the Agent shall act as the agent of each Finance Party and is hereby authorised on behalf of each Finance Party to enter into, enforce the rights of each Finance Party under and represent each Finance Party in respect of the granting of a Spanish Public Document.

### **32.3 Role of the Arrangers**

Except as specifically provided in the Finance Documents, none of the Arrangers has any obligations of any kind to any other Party under or in connection with any Finance Document.

### **32.4 No fiduciary duties**

- (a) Nothing in this Agreement constitutes the Agent, any Arranger and/or the Issuing Bank acting as a trustee or fiduciary of any other person.
- (b) None of the Agent, the Security Agent, any Arranger, the Issuing Bank or any Ancillary Lender shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

### **32.5 Business with the Group**

The Agent, the Security Agent, any Arranger, the Issuing Bank and each Ancillary Lender may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

### **32.6 Rights and discretions**

- (a) The Agent, the Security Agent and the Issuing Bank may:
  - (i) rely on:
    - (A) any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised; and
    - (B) any statement made by a director, authorised signatory or employee of any person regarding any matter which may reasonably be assumed to be within his knowledge or within his power to verify;
  - (ii) assume that:
    - (A) any instructions received by it from the Majority Lenders, the Super Majority Lenders, any Lenders or any group of Lenders are duly given in accordance with the terms of the Finance Documents; and
    - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
  - (iii) rely on a certificate or any statement by or from any person:
    - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or



- (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate or statement.

- (b) The Agent and the Security Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
- (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 28.1 (*Non-payment*));
  - (ii) any right, power, authority or discretion vested in any Party or any group of Lenders has not been exercised; and
  - (iii) any notice or request made by Listco (other than a Utilisation Request or Selection Notice) is made on behalf of and with the consent and knowledge of all the Obligors.
- (c) The Agent and the Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Agent and the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to the Agent and/or the Security Agent (and so separate from any lawyers instructed by the Lenders) if the Agent and/or the Security Agent in its reasonable opinion deems this to be desirable.
- (e) The Agent and the Security Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) The Agent and the Security Agent may act in relation to the Finance Documents through its officers, employees and agents and neither the Agent nor the Security Agent shall:
- (i) be liable for any error of judgment made by any such person; or
  - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part, of any such person,
- unless such error or such loss was directly caused by the Agent's (or Security Agent's, as the case may be) gross negligence or wilful misconduct.
- (g) Unless a Finance Document expressly provides otherwise the Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, none of the Agent, the Security Agent, the Arrangers or the Issuing Bank is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (i) Notwithstanding any provision of any Finance Document to the contrary, neither the Agent nor the Security Agent is obliged to expend or risk its own funds or otherwise incur any financial



liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.

### **32.7 Lenders' Instructions**

- (a) The Agent shall:
- (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by:
    - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision;
    - (B) the Super Majority Lenders if the relevant Finance Document stipulates the matter is a Super Majority Lender decision; and
    - (C) in all other cases, the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Agent and the Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender or group of Lenders, from that Lender or group of Lenders) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Agent and the Security Agent may refrain from acting unless and until it receives those instructions or that clarification.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender or group of Lenders under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all the Finance Parties other than the Security Agent.
- (d) Each of the Agent and the Security Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any associated VAT) which it may incur in complying with those instructions.
- (e) In the absence of instructions, the Agent may act (or refrain from acting) as it considers to be in the best interest of the Lenders.
- (f) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (f) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.



### **32.8 Responsibility for documentation**

None of the Agent, the Security Agent, the Arrangers, the Issuing Bank or any Ancillary Lender is responsible or liable for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Agent, any Arranger, the Issuing Bank, an Ancillary Lender, an Obligor or any other person given in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security; or
- (c) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

### **32.9 No duty to monitor**

Neither the Agent or the Security Agent shall be bound to enquire:

- (a) whether or not any Default (or default, event of default, or termination event, howsoever described) has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

### **32.10 Exclusion of liability**

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Agent, the Security Agent, the Issuing Bank or any Ancillary Lender), none of the Agent, the Security Agent, the Issuing Bank, nor any Ancillary Lender will be liable for:
  - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Transaction Security, unless directly caused by its gross negligence or wilful misconduct;
  - (ii) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising in relation to any Additional Facility Notice or Additional Facility Document and/or failure by any person to comply with any applicable law or regulation, unless directly caused by its gross negligence or wilful misconduct;
  - (iii) exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of,



under or in connection with, any Finance Document or the Transaction Security, unless caused directly by its gross negligence or wilful misconduct; or

- (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of:
  - (A) any act, event or circumstance not reasonably within its control; or
  - (B) the general risks of investment in, or the holding of assets in, any jurisdiction, including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of (i) nationalisation, expropriation or other governmental actions, (ii) any regulation, currency restriction, devaluation or fluctuation, (iii) market conditions affecting the execution or settlement of transactions or the value of assets (including any Disruption Event), (iv) breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems, (v) natural disasters or acts of God, (vi) war, terrorism, insurrection or revolution or (vii) strikes or industrial action.
- (b) No Party (other than the Agent, the Security Agent, the Issuing Bank or an Ancillary Lender (as applicable)) may take any proceedings against any officer, employee or agent of the Agent, the Issuing Bank or any Ancillary Lender in respect of any claim it might have against the Agent, the Issuing Bank or an Ancillary Lender or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Transaction Document and any officer, employee or agent of the Agent, the Issuing Bank or any Ancillary Lender may rely on this Clause 32 subject to Clause 1.11 (*Third party rights*) and the provisions of the Third Parties Act.
- (c) The Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Agent if the Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for that purpose.
- (d) Nothing in this Agreement shall oblige the Agent or any Arranger to carry out any "know your customer" or other checks in relation to any person or any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Lender, on behalf of any Lender and each Lender confirms to the Agent and each Arranger 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 the Agent or any Arranger.
- (e) Without prejudice to any provision of any Finance Document excluding or limiting the Agent's or the Security Agent's liability, any liability of the Agent or the Security Agent arising under or in connection with any Finance Document or the Transaction Security shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Agent (or Security Agent, as applicable) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent (or Security Agent, as applicable) at any time which increase the amount of that loss. In no event shall the Agent or the Security Agent be



liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Agent or the Security Agent has been advised of the possibility of such loss or damages.

### **32.11 Lenders' indemnity to the Agent and the Security Agent**

- (a) Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify each of the Agent and the Security Agent, within three Business Days of demand, against any cost, loss or liability incurred by the Agent or the Security Agent (otherwise than by reason of the Agent's or the Security Agent's gross negligence or wilful misconduct) in acting as Agent or as Security Agent under the Finance Documents (unless the Agent or the Security Agent has been reimbursed by an Obligor pursuant to a Finance Document).
- (b) Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Finance Documents, including in relation to any action taken or not taken by the retiring Security Agent in connection with its retirement or resignation, but shall remain entitled to the benefit of paragraph (a) above.

### **32.12 Resignation of the Agent**

- (a) The Agent may (after consultation with Listco) resign and appoint one of its Affiliates acting through an office in the United Kingdom as successor by giving notice to the Lenders and Listco.
- (b) Alternatively, the Agent may resign by giving notice to the Lenders and Listco, in which case the Majority Lenders (after consultation with Listco) may appoint a successor Agent.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within 30 days of notice of resignation being given, the Agent (after consultation with Listco) may appoint a successor Agent (acting through an office in the United Kingdom).
- (d) The retiring Agent shall, at its own cost, make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (e) The Agent's resignation notice shall only take effect upon the appointment of a successor.
- (f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 32.12. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with Listco, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.
- (h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:



- (i) the Agent fails to respond to a request under Clause 18.9 (*FATCA Information*) and Listco or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
- (ii) the information supplied by the Agent pursuant to Clause 18.9 (*FATCA Information*) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
- (iii) the Agent notifies Listco and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) Listco or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, Listco or that Lender, by notice to the Agent, requires it to resign.

- (i) Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party, including the capacity to represent any Finance Party for the purposes of raising any Finance Document to the status of Spanish Public Document.

### **32.13 Confidentiality**

- (a) In acting as agent for the Finance Parties, the Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Agent, it may be treated as confidential to that division or department and the Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, neither of the Agent or any Arranger are obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

### **32.14 Relationship with the Lenders**

- (a) The Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five Business Days' prior notice from that Lender to the contrary in accordance with the terms of this Agreement.
- (b) Each Lender shall supply the Agent with any information that the Security Agent may reasonably specify (through the Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Lender shall deal with the Security Agent exclusively through the Agent and shall not deal directly with the Security Agent.
- (c) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 37.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address, department and officer



by that Lender for the purposes of Clause 37.2 (*Addresses*) and paragraph (a)(iii) of Clause 37.5 (*Electronic communication*) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

### **32.15 Credit appraisal by the Lenders, Issuing Bank and Ancillary Lenders**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender, Issuing Bank and Ancillary Lender confirms to the Agent, each Arranger, the Issuing Bank and each Ancillary Lender that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document, including, but not limited to:

- (a) the financial condition, status and nature of each member of the Group;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;
- (c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security or the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Agent, any Party or any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property.

### **32.16 Reference Banks**

The Agent may (in consultation with Listco) from time to time appoint any person who complies with the definition of 'Reference Banks' to be a Reference Bank for the purposes of the Finance Documents.

### **32.17 Deduction from amounts payable by the Agent**

If any Party owes an amount to the Agent under the Finance Documents, the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents, that Party shall be regarded as having received any amount so deducted.



### 32.18 Reliance and engagement letters

Each Finance Party confirms that each of the Arrangers and the Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Arrangers or the Agent (as the case may be)), the terms of any reliance letter or engagement letters relating to any reports or letters provided by accountants in connection with the Finance Documents or the transactions contemplated in the Finance Documents (including any net asset letter in connection with the financial assistance procedures) and to bind it in respect of those reports or letters and to sign such letters on its behalf and further confirms that it agrees to be bound by and accepts the terms and qualifications set out in such letters.

### 32.19 The Register

The Agent, acting for these purposes solely as an agent of the Borrowers, will maintain (and make available upon reasonable prior notice at reasonable times for inspection by the Borrowers and, in respect of its own Commitments and Loans, each Lender) a register for the recordation of, and will record, the names and addresses of the Lenders and the respective amounts of the Commitments and participations in Loans of each Lender from time to time (the "**Register**"). Absent manifest error, the entries in the Register shall be conclusive and binding for all purposes and the Borrowers, the Agent and the Lenders shall treat each person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement.

## 33. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision 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 or 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 computations in respect of Tax.

## 34. SHARING AMONG THE FINANCE PARTIES

### 34.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 35 (*Payment mechanics*) and applies that amount to a payment due under the Finance Documents, then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 35 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery



less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 35.5 (*Partial payments*).

#### **34.2 Redistribution of payments**

The Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 35.5 (*Partial payments*).

#### **34.3 Recovering Finance Party's rights**

- (a) On a distribution by the Agent under Clause 34.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.
- (b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the Finance Parties which have shared in the redistribution will turn over any proceeds received from the relevant Obligor on such rights promptly upon receipt of the same to the Recovering Finance Party.

#### **34.4 Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 34.2 (*Redistribution of payments*) shall, upon request of the Agent, pay to the Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and
- (b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Finance Party for the amount so reimbursed.

#### **34.5 Exceptions**

- (a) This Clause 34 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 34, have a valid and enforceable claim against the relevant Obligor.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified the other Finance Party of the legal or arbitration proceedings; and
  - (ii) the other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.
- (c) Without prejudice to paragraph (b) above, this Clause 34 shall apply to the extent that a Recovering Finance Party shall have received an amount in excess of the amount it would have



received in accordance with Clause 30 (*Payment mechanics*) pursuant to article 91.7 of Spanish Insolvency Law, unless the Recovering Finance Party prior to commencement of insolvency proceedings against an Obligor has requested the Agent to start such proceedings jointly on behalf of the Lenders and such request has not been approved by the Majority Lenders within five Business Days of such request.

- (d) This Clause 34 shall not apply to the extent that, in the event of insolvency of any Obligor, a Lender is declared to be a specially related person under article 93 of the Spanish Insolvency Law (the "**Related Lender**") and, as a result thereof, the credit rights of that Lender against any of the Obligors under this Agreement are considered subordinated claims for the purposes of the insolvency proceedings. In such event all payments received by the Lenders shall be distributed in full amongst all Lenders, excluding any Related Lender, in proportion to their respective participation in the relevant Facilities.

#### **34.6 Ancillary Lenders**

- (a) This Clause 34 shall not apply to any receipt or recovery by a Lender in its capacity as an Ancillary Lender at any time prior to service of notice under paragraph (a) or (b) of Clause 28.16 (*Acceleration*).
- (b) Following service of notice under paragraph (a) or (b) of Clause 28.16 (*Acceleration*), this Clause 34 shall apply to all receipts or recoveries by Ancillary Lenders except to the extent that the receipt or recovery represents a reduction from the Designated Gross Amount for an Ancillary Facility to its Designated Net Amount.



**SECTION 11**  
**ADMINISTRATION**

**35. PAYMENT MECHANICS**

**35.1 Payments to the Agent**

- (a) On each date on which an Obligor or a Lender is required to make a payment under a Finance Document, excluding a payment under the terms of an Ancillary Document, that Obligor or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London) with such bank as the Agent specifies.

**35.2 Distributions by the Agent**

Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 35.3 (*Distributions to an Obligor*) and Clause 35.4 (*Clawback*), be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in the principal financial centre of a Participating Member State or London).

**35.3 Distributions to an Obligor**

The Agent may (with the consent of the Obligor or in accordance with Clause 36 (*Set-off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

**35.4 Clawback**

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

**35.5 Partial payments**

- (a) If the Agent receives a payment for application against amounts due in respect of any Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor



under those Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

- (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Agent, the Arrangers the Issuing Bank and the Security Agent under the Finance Documents;
  - (ii) **secondly**, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under the Finance Documents;
  - (iii) **thirdly**, in or towards payment pro rata of any principal due but unpaid under those Finance Documents and any amount due but unpaid under Clause 7.2 (*Claims under a Letter of Credit*) and Clause 7.3 (*Indemnities*); and
  - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (a)(iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

#### **35.6 No set-off by Obligors**

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

#### **35.7 Business Days**

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

#### **35.8 Currency of account**

- (a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) A repayment of a Utilisation or Unpaid Sum or a part of a Utilisation or Unpaid Sum shall be made in the currency in which that Utilisation or Unpaid Sum is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency and (unless a contrary indication appears) any fee expressed to be payable in respect of a Facility shall be made in the currency in which such Facility was denominated when such fee accrued.



### **35.9 Change of currency**

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

### **35.10 Additional Facility administration**

Notwithstanding anything to the contrary in any Finance Document (unless it would require an all Lender consent), in relation to any Additional Facility, the Agent, Listco and the relevant Additional Facility Lender shall be permitted to agree alternative arrangements regarding the administration and operation of that Additional Facility (including, without limitation, in relation to the time, method and place of payments and the delivery of notices and other communications in relation to that Additional Facility).

## **36. SET-OFF**

- (a) If an Event of Default is continuing, a Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (b) Any credit balances taken into account by an Ancillary Lender when operating a net limit in respect of any overdraft under an Ancillary Facility shall on enforcement of the Finance Documents be applied first in reduction of the overdraft provided under that Ancillary Facility in accordance with its terms.

## **37. NOTICES**

### **37.1 Communications in writing**

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

### **37.2 Addresses**

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



- (a) in the case of any Obligor that communicated to the Agent in writing prior to the Closing Date;
- (b) in the case of each Lender, the Issuing Bank, or each Ancillary Lender, that notified in writing to the Agent on or prior to the date on which it becomes a Party; and
- (c) in the case of the Agent or the Security Agent:

Address: One Cabot Square, London, E14 4QJ

Email: london.loansagency@credit-suisse.com

Fax No: +44 20 7888 8398

Attention: Agency Desk,

or any substitute address, fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

### **37.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address, and, if a particular department or officer is specified as part of its address details provided under Clause 37.2 (*Addresses*), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Agent or the Security Agent will be effective only when actually received by the Agent or Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's or Security Agent's signature below (or any substitute department or officer as the Agent or Security Agent shall specify for this purpose).
- (c) All notices from or to an Obligor shall be sent through the Agent.
- (d) Any communication or document made or delivered to Listco in accordance with this Clause 37.3 will be deemed to have been made or delivered to each of the Obligors.

### **37.4 Notification of address and fax number**

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 37.2 (*Addresses*) or changing its own address or fax number, the Agent shall notify the other Parties.

### **37.5 Electronic communication**

- (a) Any communication to be made between the Agent or the Security Agent and a Lender under or in connection with the Finance Documents may be made by electronic mail or other electronic means if the Agent, the Security Agent and the relevant Lender:



- (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
  - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (iii) notify each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between the Agent and a Lender or the Security Agent will be effective only when actually received in readable form and in the case of any electronic communication made by a Lender to the Agent or the Security Agent only if it is addressed in such a manner as the Agent or Security Agent shall specify for this purpose.

### 37.6 Use of websites

- (a) Listco may satisfy its obligation under this Agreement to deliver any information in relation to those Lenders (the "**Website Lenders**") who accept this method of communication by posting this information onto a website designated by Listco and the Agent (the "**Designated Website**") if:
- (i) the Agent expressly agrees (after consultation with each of the Lenders) that it will accept communication of the information by this method;
  - (ii) both Listco and the Agent are aware of the address of and any relevant password specifications for the Designated Website; and
  - (iii) the information is in a format previously agreed between Listco and the Agent.

If any Lender (a "**Paper Form Lender**") does not agree to the delivery of information electronically, then the Agent shall notify Listco accordingly and Listco shall, at its own cost, supply the information to the Agent (in sufficient copies for each Paper Form Lender) in paper form. In any event, Listco shall, at its own cost, supply the Agent with at least one copy in paper form of any information required to be provided by it.

- (b) The Agent shall supply each Website Lender with the address of and any relevant password specifications for the Designated Website following designation of that website by Listco and the Agent.
- (c) Listco shall, promptly upon becoming aware of its occurrence, notify the Agent if:
- (i) the Designated Website cannot be accessed due to technical failure;
  - (ii) the password specifications for the Designated Website change;
  - (iii) any new information which is required to be provided under this Agreement is posted on the Designated Website;
  - (iv) any existing information which has been provided under this Agreement and posted on the Designated Website is amended; or
  - (v) Listco becomes aware that the Designated Website or any information posted on the Designated Website is or has been infected by any electronic virus or similar software.

If Listco notifies the Agent under paragraph (i) or (v) above, all information to be provided by Listco under this Agreement after the date of that notice shall be supplied in paper form unless



and until the Agent and each Website Lender is satisfied that the circumstances giving rise to the notification are no longer continuing.

- (d) Any Website Lender may request, through the Agent, one paper copy of any information required to be provided under this Agreement which is posted on the Designated Website. Listco shall, at its own cost, comply with any such request within 10 Business Days.
- (e) Listco acknowledges that the Agent will make available to Website Lenders material and/or information provided by or on behalf of Listco (or, as the case may be, any other member of the Group) (collectively, "**Group Information**") by posting that Group Information on the Designated Website and that certain of those Website Lenders (each such Website Lender, a "**Public Lender**") may have personnel who do not wish to receive material non-public information (within the meaning of applicable securities laws or, as the case may be, other applicable laws and/or regulations) with respect to the Group or any debt, equity or other securities of any member of the Group, and who may be engaged in investment and other market-related activities with respect to any such securities.
- (f) Listco agrees that it will (and Listco will ensure that each other member of the Group shall) use commercially reasonable efforts to identify that portion of any Group Information that may be distributed to Public Lenders and that:
  - (i) all such Group Information shall be clearly marked on its face as either being "Public Side Information" or (as applicable) "Private Side Information";
  - (ii) that by marking any Group Information as "Public Side Information", Listco (or, as the case may be, any other member of the Group) shall be deemed to have authorised the Finance Parties to treat such Group Information as not containing any material non- public information with respect the Group or any debt, equity or other securities of any member of the Group for purposes of applicable securities laws or, as the case may be, other applicable laws and/or regulations;
  - (iii) all Group Information marked "Public Side Information" is permitted to be made available through a section or other area of the Designated Website which is designated "Public Side Information";
  - (iv) all Group Information marked "Private Side Information" is permitted to be made available through a section or other area of the Designated Website which is designated "Private Side Information"; and
  - (v) the Group Information that is not marked "Public Side Information" shall be deemed to contain material non-public information (for purposes of applicable securities laws or, as the case may be, other applicable laws and/or regulations) and shall not be suitable for posting on the section or other area of the Designated Website designated "Public Side Information".

### **37.7 English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or



- (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

### **37.8 Communications to be made outside Austria**

Notwithstanding any other provision of the Finance Documents, any communication to be made under or in connection with the Finance Documents shall be made to the address outside the Republic of Austria. The foregoing sentence applies *mutatis mutandis* to any communication made by fax, electronic message or in other written form.

### **37.9 USA Patriot Act**

Each Lender that is subject to the requirements of the USA Patriot Act hereby notifies each Obligor that, pursuant to the requirements of the USA Patriot Act, such Lender is required to obtain, verify and record information that identifies such Obligor, which information includes the name and address of such Obligor and other information that will allow such Lender to identify such Obligor in accordance with the USA Patriot Act.

## **38. CALCULATIONS AND CERTIFICATES**

### **38.1 Accounts**

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

### **38.2 Certificates and determinations**

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

### **38.3 Day count convention**

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

## **39. PARTIAL INVALIDITY**

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

## **40. REMEDIES AND WAIVERS**

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



## 41. AMENDMENTS AND WAIVERS

### 41.1 Required consents

- (a) Subject to Clause 41.2 (*Exceptions*), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and Listco and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 41.
- (c) Each Obligor agrees to any such amendment or waiver permitted by this Clause 41 which is agreed to by Listco, which includes any amendment or waiver which would, but for this paragraph (c), require the consent of all of the Obligors.

### 41.2 Exceptions

- (a) An amendment or waiver that has the effect of changing or which relates to:
  - (i) the definition of 'Majority Lenders' or 'Super Majority Lenders' in Clause 1.1 (*Definitions*);
  - (ii) the definitions of 'Instructing Group' or 'Majority Senior Secured Creditors' in the Intercreditor Agreement;
  - (iii) any provision which expressly requires the consent of all the Lenders;
  - (iv) Clause 2.2 (*Finance Parties' rights and obligations*), Clause 29 (*Changes to the Lenders*), Clause 34 (*Sharing among the Finance Parties*) (other than changes consequential on or required to implement a Structural Adjustment or an Additional Facility) or this Clause 41 (including the definition of 'Structural Adjustment');
  - (v) any amendment to the order of priority of subordination under the Intercreditor Agreement or the manner in which the proceeds of enforcement of the Transaction Security are distributed (other than changes consequential on or required to implement a Structural Adjustment or an Additional Facility); or
  - (vi) clauses 2 (*Ranking and Priority*), 10 (*Effect of Insolvency Event*), 11 (*Turnover of receipts*), 12 (*Redistribution*), 13 (*Enforcement of Transaction Security*), 15 (*Application of proceeds*), 15.10 (*Equalisation*), 26 (*Consents, amendments and override*) and 30 (*Governing law*) of the Intercreditor Agreement (other than changes consequential on or required to implement a Structural Adjustment or an Additional Facility),shall not be made without the prior consent of all the Lenders.
- (b) An amendment or waiver that has the effect of changing or which relates to:
  - (i) Clause 26.2 (*Financial condition*) or any other term or provision of or definition contained in Clause 26 (*Financial covenant*) but (in each case) solely insofar as that amendment or waiver relates to the calculation, determination, testing, removal and/or remedy of the financial covenant in Clause 26.2 (*Financial condition*) for the purposes of a Default under paragraph (b) of that definition or an Event of Default under paragraph (b) of that definition (and not for any other purpose, including, without limitation, for the purposes of calculating Debt Cover as used in any basket or threshold or incurrence test (in each case) to determine whether any particular transaction is permitted or is not permitted);



- (ii) a waiver of any Financial Covenant Event of Default or any Default that arises as a result of any Financial Covenant Event of Default;
  - (iii) paragraph (b) of Clause 28.16 (*Acceleration*); and
  - (iv) the definition of 'Financial Covenant Event of Default' or 'Majority RCF Lenders',
- shall require the consent of the Majority RCF Lenders (and no consent of any other Finance Party shall be required).
- (c) An amendment or waiver that has the effect of releasing any Transaction Security (unless (i) permitted under this Agreement or any other Finance Document, (ii) relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document or (iii) made at any time at which the conditions referred to in Clause 27.35 (*Covenant suspension/relaxation*) are not satisfied (and not, for the avoidance of any doubt, otherwise) and the Guarantor Coverage set out in Clause 27.29 (*Guarantors*) is maintained (taking into account, for this purpose, the effect of that release)) shall not be made without the prior consent of the Super Majority Lenders.
  - (d) Any term of the Finance Documents may be amended by the Agent and the Obligors' Agent (without the consent of any other Party) in order to correct any manifest error, resolve ambiguities or reflect changes of a minor, technical or administrative nature.
  - (e) Any amendment or waiver which relates to the rights or obligations applicable to a particular Utilisation, Loan, Facility or class of Lenders, and which does not materially and adversely affect the rights or interests of Lenders in respect of other Utilisations, Loans, Facilities or another class of Lender, may be made with only the consent of the Majority Lenders (or the relevant Lenders or Super Majority Lenders, as the case may be) as if references in this Clause 41.2 to "Lenders" (including as used in the definitions of "Majority Lenders" and "Super Majority Lenders", as the case may be) were only to Lenders participating in that Utilisation, Loan, Facility or forming part of that affected class.
  - (f) An amendment or waiver which relates to the rights or obligations of the Agent, any Arranger, the Issuing Bank, the Security Agent or any Ancillary Lender may not be effected without the consent of the Agent, that Arranger, the Issuing Bank, the Security Agent or that Ancillary Lender.
  - (g) Any waiver of a right of prepayment under Clause 12.2 (*Disposal, insurance and Excess Cashflow*) shall require only the consent of the Majority Lenders.
  - (h) Subject to the provisions of the Intercreditor Agreement, a Structural Adjustment may be approved only with the consent of:
    - (i) in the case of a Structural Adjustment under paragraphs (ii), (iii) (iv), (v) and (as applicable) (vi) of the definition of Structural Adjustment, each Lender that is participating in that extension, redenomination, reduction or change; or
    - (ii) in the case of any Structural Adjustment under paragraph (i) and (as applicable) (vi) of the definition of Structural Adjustment, the Majority Lenders and each Lender that is assuming a Commitment or an increased Commitment in the relevant Loan or Facility or participating in the additional loan, commitment, tranche or facility (as the case maybe),



provided that (notwithstanding any term of any Finance Document to the contrary) no Majority Lender consent (nor the consent of any other Lender, other than each Lender referred to in paragraph (i) above) shall be required to introduce an additional tranche or facility into this Agreement (or any other Finance Document, as applicable) in order implement or to give effect to any Structural Adjustment under paragraph (ii), (iii), (iv) (v) or (as applicable) (vi) of the definition of Structural Adjustment.

- (i) For the purposes of this Clause 41, "**Structural Adjustment**" means an amendment, waiver or variation of the terms of some or all of the Finance Documents that results from or is intended to result from or constitutes:
  - (i) an increase in or addition of any Commitment, the introduction of an additional loan, commitment, tranche or facility into the Finance Documents, which does not rank senior to the Facilities;
  - (ii) any extension of the availability of any Commitment, any redenomination of any Commitment into another currency or extension of any Availability Period;
  - (iii) an extension to the date of payment or maturity of any principal, interest, fees, commission or other amount payable under the Finance Documents;
  - (iv) a reduction in the Margin or a reduction in any payment of principal, interest, fees, commission or other amount payable;
  - (v) a change in currency of payment of any principal, interest, fees, commission or other amount payable under the Finance Documents; and
  - (vi) any amendment to the Finance Documents (including changes to, the taking of or the release coupled with the immediate retaking of Security) consequential on or required to implement anything described in paragraphs (i) to (v) above.
- (j) If a Lender does not accept or reject an amendment or waiver request within 10 Business Days (unless Listco and the Agent agree to a longer time period in relation to any request) of it being made, it and/or (as applicable) its Commitments and/or participations shall not be included for the purpose of any unanimous Lender amendment or waiver request, any request in respect of a Structural Adjustment or for the purpose of calculating the Total Commitments or participations under the relevant Facility when ascertaining whether any such request is accepted or reject by a particular Lender or whether a certain percentage of Total Commitments and/or participations has been obtained to approve or refuse any such amendment or waiver.
- (k) An amendment or waiver which relates to paragraphs (c) of Clause 24.21 (*Anti-Corruption Laws, Anti-Money Laundering and Sanctions*) or paragraph (d) of Clause 27.36 (*Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions*) may not be effected without the consent of each Relevant Party.

## **42. CONFIDENTIALITY**

### **42.1 Confidential Information**

Each Finance Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 42.2 (*Disclosure of information*), Clause 42.3 (*Disclosure to numbering service providers*) and Clause 42.4 (*Disclosure to*



*administration/settlement services providers*) and to ensure that all Confidential Information is protected with security measure and a degree of care that it would apply to its own confidential information.

#### **42.2 Disclosure of information**

(a) Any Finance Party may disclose to (x) any of its Affiliates and Related Funds and any of its or their officers, directors, employees, professional advisers, auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph (a)(x) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information and (y) any other person:

- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under one or more Finance Documents and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
- (ii) with (or through) whom that Finance Party enters into (or may potentially enter into) whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, one or more Finance Documents and/or one or more Obligors and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
- (iii) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation; or
- (iv) required in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (v) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 29.8 (*Security Interests over Lenders' rights*); or
- (vi) who is a Party,

such Confidential Information as that Lender or other Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (a)(i) and (a)(ii) above, the person to whom the information is to be given has entered into a Confidentiality Undertaking; or
- (B) in relation to paragraph (a)(v) above, the person to whom the information is to be given is informed of its confidential nature and that some or all of such information may be price-sensitive information.

(b) Any Finance Party may disclose to a rating agency or its professional advisers, or (with the consent of Listco) any other person (excluding, for the avoidance of doubt, any person listed or, as the case may be, described in paragraph (a) above), such information about any Obligor or



the Group which it has received from the Obligors under this Agreement and the Finance Documents as that Finance Party shall consider appropriate if that rating agency or such person is informed of its confidential nature and that some or all of such information may be price-sensitive information.

- (c) Any Confidentiality Undertaking signed by a Finance Party pursuant to this Clause 42.2 shall supersede any prior confidentiality undertaking signed by such Finance Party for the benefit of any member of the Group. A copy of each Confidentiality Undertaking (and any amendment thereto) shall be provided to Listco by the respective Lender within 10 Business Days of Listco's written request.

#### **42.3 Disclosure to numbering service providers**

- (a) Notwithstanding any other term of any Finance Document or any other agreement between the Parties to the contrary (whether express or implied), any Finance Party may disclose to any national or international numbering service provider appointed by that Finance Party to provide identification numbering services in respect of this Agreement, the Facilities and/or one or more Obligors the following information:

- (i) names of Obligors;
- (ii) country of domicile of Obligors;
- (iii) place of incorporation of Obligors;
- (iv) date of this Agreement;
- (v) the names of the Agent and the Arrangers;
- (vi) date of each amendment and restatement of this Agreement;
- (vii) amount of Total Commitments;
- (viii) currencies of the Facilities;
- (ix) type of Facilities;
- (x) ranking of Facilities;
- (xi) Termination Date for Facilities;
- (xii) changes to any of the information previously supplied pursuant to paragraphs (i) to (xi) above; and
- (xiii) such other information agreed between such Finance Party and Listco,

to enable such numbering service provider to provide its usual syndicated loan numbering identification services.

- (b) The Parties acknowledge and agree that each identification number assigned to this Agreement, the Facilities and/or one or more Obligors by a numbering service provider and the information associated with each such number may be disclosed to users of its services in accordance with the standard terms and conditions of that numbering service provider.
- (c) Each Obligor represents that none of the information set out in paragraphs (i) to (xiii) of paragraph (a) above is, nor will at any time be, unpublished price-sensitive information.
- (d) The Agent shall notify Listco and the other Finance Parties of:



- (i) the name of any numbering service provider appointed by the Agent in respect of this Agreement, the Facilities and/or one or more Obligors; and
- (ii) the number or, as the case may be, numbers assigned to this Agreement, the Facilities and/or one or more Obligors by such numbering service provider.

#### **42.4 Disclosure to administration/settlement service providers**

Notwithstanding any other term of any Finance Document or any other agreement between the Parties to the contrary (whether express or implied), any Finance Party may disclose to any person appointed by:

- (i) that Finance Party;
- (ii) a person to (or through) whom that Finance Party assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under this Agreement; and/or
- (iii) a person with (or through) whom that Finance Party 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,

to provide administration or settlement services in respect of one or more of the Finance Documents including without limitation, in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this Clause 42.4 if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of the LMA Master Confidentiality Undertaking for use with Administration/Settlement Service Providers or such other form of confidentiality undertaking agreed between Listco and the relevant Finance Party.

#### **42.5 Consent pursuant to Austrian Banking Act**

For the avoidance of doubt, each Austrian Obligor herewith explicitly consents within the meaning of section 38 para 1 no 5 of the Austrian Banking Act (*Bankwesengesetz – BWG*) to a disclosure of Confidential Information pursuant to, and in accordance with the limitations of, this Clause 42 and explicitly waives any banking secrecy obligations the Finance Parties may have under section 38 of the Austrian Banking Act in this respect.

### **43. COUNTERPARTS**

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



**SECTION 12**  
**GOVERNING LAW AND ENFORCEMENT**

**44. GOVERNING LAW**

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

**45. ENFORCEMENT**

**45.1 Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "**Dispute**").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 45.1 is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.

**45.2 Service of process**

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales):
  - (i) irrevocably appoints Midco as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document and Listco, by its execution of this Agreement, accepts that appointment; and
  - (ii) agrees that failure by an agent for service of process to notify the relevant Obligor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, Listco (on behalf of all the Obligors) must immediately (and in any event within 60 days of such event taking place) appoint another agent on terms acceptable to the Agent. Failing this, the Agent may appoint another agent for this purpose.
- (c) Each Obligor not incorporated in England and Wales expressly consents to the provisions of this Clause 45 and Clause 44 (*Governing law*).

**45.3 Place of performance**

The Parties agree that the exclusive place of performance (*Erfüllungsort*) for all rights and obligations under any Finance Document shall be at the seat of the Agent in London, or any other place reasonably designated by the Agent but in any case a place outside the Republic of Austria, which especially means that the payment of amounts under any Facility shall be made to a bank account respectively, and from a bank account outside of the Republic of Austria. Any communication to be made under or in connection with this Agreement or any other Finance Document shall be made to an address outside of the Republic of Austria. It is expressly agreed



between the Parties hereto that any such performance within the Republic of Austria will not establish Austria as the place of performance and shall be deemed not effective with respect to any Party hereto.

#### **45.4 Executive proceedings**

- (a) Upon enforcement, the sum payable by a Spanish Obligor shall be the aggregate amount of the balance of the accounts maintained by the Agent (or the relevant Lender, as the case may be) pursuant to Clause 38.1 (*Accounts*). For the purposes of Articles 571 et seq. of the Spanish Civil Procedural Law, the Parties agree that such balances shall be considered as due, liquid and payable and may be claimed pursuant to that law.
- (b) For the purposes of the provisions of Art. 571 et seq. of the Spanish Civil Procedural Law, the Parties agree that the amount of the debt to be claimed through executive proceedings shall be determined by the Agent (or a Lender, as the case may be) in a certificate evidencing the balances shown in the relevant account(s) referred to in paragraph (a) of this Clause 45.4. For the Agent or a Lender to exercise executive action it must present:
  - (i) an original notarial first or authentic copy with enforcement attributes (*efectos ejecutivos*) of this Agreement;
  - (ii) a notarial certificate, if required, for the purposes described in paragraph (c) of this Clause 45.4;
  - (iii) the notarial document ("*acta notarial*") which:
    - (A) incorporates the certificate of amounts due by the Spanish Obligor issued by the Agent (or the relevant Lender, as the case may be);
    - (B) sets out an excerpt of the credits and debits, including the interest applied, which appears in the relevant account(s) referred to in paragraph (a) of this Clause 45.4; and
    - (C) evidences that the amounts due and payable by the Spanish Obligor have been calculated in accordance with this Agreement and that such amounts match the balance of the accounts, and
  - (iv) a notarial document ("*acta notarial*") evidencing that the Spanish Obligor has been served notice for the amount that is due and payable.
- (c) Paragraph (b) of this Clause 45.4 is also applicable to any Lender with regard to its Commitments or participations in Utilisations. Such Lender may issue the appropriate certification of the balances of the relevant account(s) referred to in paragraph (a) of this Clause 45.4 and the certification of the balances of such accounts may be legalised by a notary.
- (d) The amount of the balances determined in accordance with this Clause 45.4 shall be notified to the relevant Spanish Obligor in an attestable manner at least three days in advance of exercising any executive action.
- (e) Each Spanish Obligor hereby authorises the Agent (and each Lender, as appropriate) to request and obtain certificates and documents issued by the notary which has formalised this Agreement in order to evidence the entries in the notary's registry-book and the relevant entry date for the purpose of



number 4 of Article 517, of the Spanish Civil Procedural Law. The cost of such certificate and documents will be for the account of the relevant Spanish Obligor.

- (f) This Agreement shall be raised to the status of a Spanish Public Document by the Spanish Obligors for the purposes contemplated in Article 517 et seq. of the Spanish Civil Procedural Law and other related provisions.

#### **45.5 Waiver of Jury Trial**

EACH PARTY HERETO HEREBY WAIVES ANY RIGHT IT MAY HAVE TO A JURY TRIAL IN RESPECT OF ANY LITIGATION IN ANY UNITED STATES FEDERAL OR STATE COURT DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER FINANCE DOCUMENTS OR ANY DEALINGS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION OR THE LENDER/BORROWER/GUARANTOR RELATIONSHIP. Each party hereto hereby acknowledges that this waiver is a material inducement to enter into a business relationship, it has relied on this waiver in entering into this Agreement, and it will continue to rely on this waiver in related future dealings. Each party hereto hereby further warrants and represents that it has reviewed this waiver with its legal counsel and it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE AND MAY NOT BE MODIFIED OTHER THAN BY A WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS CLAUSE 45.5 (*Waiver of Jury Trial*) AND EXECUTED BY EACH OF THE PARTIES HERETO. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

#### **46. GENERAL AUSTRIAN LIMITATION**

Notwithstanding any provision to the contrary in any Finance Document, the obligations (*Verpflichtungen*) and liabilities (*Haftungen*) of an Austrian Obligor under any Finance Document shall at all times be limited so that at no time the assumption of a liability (*Haftungen*) and/or obligation (*Verpflichtung*) shall be required to the extent that such liability (*Haftung*) or obligation (*Verpflichtung*) would violate Austrian Capital Maintenance Rules (*Kapitalerhaltungsvorschriften*) pursuant to Austrian company law, in particular sections 82 et seq. of the Austrian Act on Limited Liability Companies (*Gesetz über Gesellschaften mit beschränkter Haftung*) and/or sections 52 and 65 et seq. of the Austrian Stock Corporation Act (*Aktiengesetz*) (the "**Austrian Capital Maintenance Rules**"). Should any obligation (*Verpflichtung*) and/or liability (*Haftung*) of an Austrian Obligor under any Finance Document violate or contradict the Austrian Capital Maintenance Rules and therefore be held invalid or unenforceable in whole or in part or should the assumption or enforcement of such obligation (*Verpflichtung*) or liability (*Haftung*) expose any managing director or member of the supervisory board of any Austrian Obligor to personal liability or criminal responsibility, such obligation/or liability shall be deemed to be replaced by an obligation (*Verpflichtung*) and/or liability (*Haftung*) of a similar nature (i) which is in compliance with the Austrian Capital Maintenance Rules, (ii) which does not expose the managing directors or members of the supervisory board of the Austrian Obligor to any personal liability or criminal responsibility; and (iii) which provides the best possible security interest admissible in accordance with the Austrian Capital Maintenance Rules in favour of the Finance Parties.

**THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.**



**SIGNATURE PAGES TO THE AMENDMENT AND RESTATEMENT AGREEMENT**

**LISTCO**

**SIGNED as a DEED by  
NOMAD FOODS LIMITED  
for itself and as Obligors' Agent under (and as  
defined in) the Original Facilities Agreement on  
behalf of each other Obligor (as defined in the  
Original Facilities Agreement)  
acting by a Director in the presence of a witness**

Signature of witness

/s/Nicholas Hayland

/s/Samy Zekhout

Name: SAMY ZEKHOUT

Title: CFO Nomad Foods

Name: Nicholas Hayland

Address: XXXX

Occupation: XXXX

[Signature page to Blue ARA]



**ORIGINAL FACILITY B7 LENDER**

**CREDIT SUISSE INTERNATIONAL**

By: /s/Alison Howe

ALISON HOWE  
MANAGING DIRECTOR

By: /s/E Trocha

E TROCHA  
MD

*[Signature page to Blue ARA]*



**FACILITY B7 ARRANGERS**

**CREDIT SUISSE INTERNATIONAL**

By: /s/Alison Howe

ALISON HOWE  
MANAGING DIRECTOR

By: /s/E Trocha

E TROCHA  
MANAGING DIRECTOR

*[Signature page to Blue ARA]*



**FACILITY B7 ARRANGERS**

**GOLDMAN SACHS BANK USA**

By: /s/Yasmine Bassili

By: .....

YASMINE BASSILI  
MANAGING DIRECTOR

*[Signature page to Blue ARA]*



**FACILITY B7 ARRANGERS**

**DEUTSCHE BANK AG, LONDON BRANCH**

By: /s/Altaf Bux

By: /s/Ray Dukes

ALTAF BUX

RAY DUKES

MANAGING DIRECTOR

VICE PRESIDENT

*[Signature page to Blue ARA]*



**FACILITY B7 ARRANGERS**

**UBS LIMITED**

By: /s/Oliver Gaunt

OLIVER GAUNT  
MANAGING DIRECTOR

By: /s/Samir Karam

SAMIR KARAM  
EXECUTIVE DIRECTOR

*[Signature page to Blue ARA]*



**COMMERZBANK as an Original Revolving Facility Lender**

**COMMERZBANK AKTIENGESELLSCHAFT**

By: /s/Heiko Teucher

By: /s/D Marker

HEIKO TEUCHER  
DIRECTOR

D MARKER  
DIRECTOR

*[Signature page to Blue ARA]*



**AGENT**

**CREDIT SUISSE AG, LONDON BRANCH**

By: /s/Alison Howe

ALISON HOWE  
MANAGING DIRECTOR

By: /s/E Trocha

E TROCHA  
MD

*[Signature page to Blue ARA]*



**SECURITY AGENT**

**CREDIT SUISSE AG, LONDON BRANCH**

By: /s/Alison Howe

ALISON HOWE  
MANAGING DIRECTOR

By: /s/E Trocha

E TROCHA  
MD

*[Signature page to Blue ARA]*





## NOMAD FOODS LIMITED

AMENDED AND RESTATED LONG TERM 2015 INCENTIVE PLAN  
(initially adopted by resolution of the Board on June 15, 2015 and amended and restated by resolution of the Compensation Committee on August 15, 2019)

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### RULES

#### 1 DEFINITIONS AND INTERPRETATION

1.1 In the Plan, unless the context otherwise requires:

**Agreement** means an agreement executed pursuant to this Plan granting an Award to an eligible individual

**Acquiring Company** means a company that obtains Control of the Company as described at Rule 10.1 and 10.2 or proposes to obtain Control of the Company as described at Rule 10.3

**Award** means a right to acquire Shares, subject to the fulfilment of certain conditions, granted under the Plan by the execution of an Agreement

**Board** means the board of directors of the Company or a duly authorised committee of the Board (which includes the Committee)

**Change of Control** means an event described at Rule 10.1 or 10.2 (*Takeovers and other corporate events*)

**Committee** means the compensation committee or other duly authorised committee of the Board or duly authorised official of the Company or, on and after the occurrence of a Change of Control the compensation committee of the Board as constituted immediately before such event occurs

**Commencement Date** means June 15, 2015

**Company** means Nomad Foods Limited (registered in the British Virgin Islands with number 1818482)

**Control** means control within the meaning of section 1124 of the Corporation Tax Act 2010

**Dealing Code** means, at any time, the share dealing code or insider trader policy adopted by the Company and in force at that time

**Dealing Day** means any day on which the New York Stock Exchange is open for the transaction of business

**Grant Date** means the date on which an Award is granted

**Good Leaver** means, unless otherwise provided in an Agreement, a Participant ceasing employment with a Group Company in the circumstances set out at Rule 9.1

**Group Company** means the Company or any Subsidiary of the Company

**Listing Rules** means the Listing Rules published by the New York Stock Exchange (or the applicable rules and regulations applicable to the principal securities exchange on which the Shares are traded)

**New York Stock Exchange** means the New York Stock Exchange or any successor to that company (or the principal securities exchange on which the Shares are traded)

**Misconduct** means a Participant (a) being dismissed without notice or resigning in circumstances where his employing company would have been entitled to dismiss him without notice, or (b) committing a material breach of his employment contract or settlement agreement with his employing company.

**Participant** means a person who holds an Award, including where applicable his personal representatives

**Performance Conditions** means a condition or conditions related to (a) the financial performance of the Company and/or (b) the Participant remaining employed by or having a service relationship with a Group Company for a specified period, which in either case are specified by the Committee in an Agreement, and must be fulfilled or waived in accordance with the Rules and the Agreement for the Award to Vest

**Performance Period** means the period over which a Performance Condition is measured, specified by the Committee at the Grant Date, of an Award

**Plan** means the Nomad Foods 2015 Long Term Incentive Plan as amended from time to time

**Rule** means a rule of the Plan

**Shares** means ordinary shares of no par value in the capital of the Company

**Subsidiary** means a body corporate which is a subsidiary (within the meaning of section 1159 of the Companies Act 2006)

**Tax Liability** means any amount of tax or social security contributions (excluding employer's social security contributions unless the transfer of employer social security contributions is (a) expressly otherwise provided in an Agreement and (b) lawful in the jurisdiction in which the Participant is liable for social security contributions) for which a Participant would or may be liable and for which any Group Company or former Group Company would or may be obliged to (or would or may suffer a disadvantage if it were not to) account to any relevant authority.

**Vest** means, in relation to an Award, a Participant becoming entitled to have all or a proportion of the Shares subject to an Award issued or transferred to him or her in accordance with Rule 5 and **Vesting** shall be construed accordingly

**Vested Shares** means those Shares in respect of which an Award vests in accordance with Rule 5.

**Vesting Date** means the date the Award may vest, following the expiry of the Performance Period as specified by the Committee at the Grant Date

- 1.2 Any reference in the Plan to any enactment includes a reference to that enactment as from time to time modified, extended or re-enacted.
- 1.3 Expressions in italics and headings are for guidance only and do not form part of the Plan.

## 2 ELIGIBILITY

An individual is eligible to be granted an Award only if he is an employee, director or officer of, or an independent contractor to a Group Company.

## 3 GRANT OF AWARDS

### 3.1 Terms of grant

Subject to Rule 3.4 (*Timing of grant*), Rule 3.5 (*Approvals and consents*) and Rule 4 (*Limits*), the Committee may resolve that an Award should be granted:

- (a) on the terms set out in the Plan; and/or
- (b) on such additional or different terms relating to Performance Conditions or otherwise as the Committee may specify as set out in the Agreement or otherwise.

to any person who is eligible to be granted an Award under Rule 2 (*Eligibility*). In the event of any conflict or inconsistency between the Rules and an Agreement, the terms of the Agreement shall prevail.

### **3.2 Method of grant**

An Award shall be granted by an Agreement in the form from time to time approved by the Committee and executed by the Company and the Participant.

### **3.3 Grantor of Awards**

Unless specified to the contrary by the Committee on the Grant Date, an Award may be satisfied by:

- (a) the issue of new Shares; and/or
- (b) the transfer of Shares out of treasury or otherwise.

### **3.4 Timing of grant**

Subject to Rule 3.5 (*Approvals and consents*), an Award may be granted at any time other than the Dealing Day on or after the date on which the Company announces its results for any period, but an Award may not be granted after the tenth anniversary of the Commencement Date.

### **3.5 Approvals and consents**

The grant of any Award shall be subject to obtaining any approval or consent required under the Listing Rules, the Dealing Code or any other applicable regulation or enactment in any relevant jurisdiction.

### **3.6 Non-transferability and bankruptcy**

An Award granted to any person shall lapse immediately if:

- (a) transferred, assigned, charged or otherwise disposed of (except on his death when it may be transmitted to his personal representatives); or
- (b) the Participant is declared bankrupt (unless the Committee decides otherwise).

## **4 LIMITS**

### **4.1 10% in 10 years limit**

No Award shall be granted on any date if, as a result, the number of Shares issued or issuable (or treasury shares granted) pursuant to Awards granted in the period of ten years ending on that date under the Plan and under any other employee share plan operated by the Company, would exceed such number as represents 10% of the ordinary share capital of the Company in issue at that time.

## **5 VESTING OF AWARDS**

### **5.1 Timing of Vesting**

Subject to Rules 6.2 (Restrictions on Vesting) and 10 (*Takeovers and other corporate events*), an Award shall Vest in whole or in

part on the Vesting Date, subject to the satisfaction of the Performance Conditions relating to the Award.

## **6 RESTRICTIONS ON VESTING**

### **6.1 Restrictions on vesting: regulatory and tax issues**

No Award shall Vest unless and until the following conditions are satisfied:

- (a) the Vesting would be lawful in all relevant jurisdictions and in compliance with the Listing Rules, the Dealing Code and any other applicable regulation or enactment in any relevant jurisdiction. In particular, if an Award would Vest during a period during which the Participant (being a person covered by the Dealing Code) is not permitted to deal in Shares, then unless either (a) the Award is settled net of any Tax Liability, or (b) there is no obligation to operate withholding in respect of any Tax Liability when the Award is settled, or (c) the Committee in exceptional circumstances otherwise determines, the Vesting shall be postponed until the first date on which the Participant is permitted to deal in Shares;
- (b) if, on Vesting of an Award, a Tax Liability would arise and the Board decides that such Tax Liability shall not be satisfied by the sale of Shares pursuant to Rule 7 then

the Participant must have entered into arrangements acceptable to the Board that the relevant Group Company will receive the amount of such Tax Liability; and

- (c) the relevant Performance Conditions have been satisfied, or waived by the Committee, in whole or in part, in accordance with Rule 12.5.

### **6.2 Tax Liability before Vesting**

If a Participant will, or is likely to, incur any Tax Liability on the Vesting of an Award then that Participant must enter into arrangements acceptable to any relevant Group Company to ensure that it receives the amount of such Tax Liability. If no such arrangement is made, then the Participant authorises the Company to sell or procure the sale of sufficient of the Shares subject to his Award on his behalf to ensure that the relevant Group Company receives the amount required to discharge the Tax Liability and the number of Shares subject to his Award shall be reduced accordingly.

For the purposes of this Rule 6.2, references to Group Company include any former Group Company.

## **7 TAX INDEMNITY**

In consideration of the grant of an Award the Participant shall covenant with the Company (on behalf of every Group Company) to recover from him all and any Tax Liability, and to indemnify and keep indemnified on a continuing basis the Company in respect of such Tax Liability. For the purposes of such indemnity the Participant authorises the Company to deduct sufficient funds which, in the reasonable opinion of the Board, would be equal to any Tax Liability from any payment made to or in respect of the Participant by the Company during the 92 days following the date of Vesting

If there is no such payment or deduction made for whatever reason or the outstanding Tax Liability exceeds the amount of such payment or deduction, the Participant hereby agrees that the full amount of the outstanding Tax Liability be recovered by the sale of sufficient Vested Shares on or following the Vesting of his Award on his behalf to ensure that any relevant Group Company or former Group Company receives the amount required to discharge the Tax Liability which arises on Vesting, except to the extent that the Board decides that all or part the Tax Liability shall be funded in a different manner.

## **8 LAPSE OF AWARDS**

An Award shall lapse:

- (a) in accordance with the Rules;
- (b) at any time to the extent that the Committee determines that there is no prospect of Vesting; or
- (c) in any other circumstances provided for in an Agreement.

On the lapse of an Award no consideration shall be payable and there shall be no obligation to deliver the Shares which are the subject of such Award.

## **9 CEASING EMPLOYMENT**

### **9.1 Good leavers**

Unless the Agreement otherwise provides, if a Participant ceases to be a director, employee or officer of a Group Company, or to provide services as an independent contractor to a Group Company before the end of the Performance Period by reason of death, disability, or under any other exceptional circumstances deemed by the Committee to make the Participant a Good Leaver, the Award shall Vest to the extent that the Performance Conditions have been satisfied over the shortened period from the start of the Performance Period to the date of cessation of office or employment or the termination of the service agreement with the Group Company. Unless provided to the contrary by the Performance Conditions, the extent to which the Performance Conditions have been satisfied in such circumstances shall be determined by the Committee on such reasonable basis as it decides, and the Board shall reduce the number of Shares subject to the Award to reflect the proportion of the Performance Period elapsed at the date of cessation. Any part of the Award which remains unvested at such cessation shall lapse immediately. The Board may at its discretion postpone the Vesting of an Award for a period of up to 12 months and make Vesting conditional on the Participant abiding by the terms of their employment contract or settlement agreement with their employing company.

### **9.2 Cessation of office or employment other than as a Good Leaver**

Unless the Agreement otherwise provides, if a Participant ceases to be a director, employee or officer of a Group Company before the end of the Performance Period:

- (a) for Misconduct, or commits or is found to have committed Misconduct at any time following cessation, an Award shall lapse immediately;
- (b) for any other reason where the Participant is not a Good Leaver, the Award shall Vest only to the extent that the relevant Performance Conditions were satisfied at the date of cessation. The Board may at its discretion postpone the Vesting of an Award for a period of up to 12 months and make Vesting conditional on the Participant abiding by the terms of their employment contract or settlement agreement with their employing company.

### **9.3 Meaning of ceasing employment**

Unless the Agreement otherwise provides, a Participant shall not be treated for the purposes of this Rule 9 as ceasing to be a director, officer or employee of a Group Company until such time as he is no longer a director, officer or employee of any Group Company. If any Participant ceases to be such a director, officer or employee in circumstances where he retains a statutory right to return to work then he shall be treated as not having ceased to be such a director or employee until such time (if at all) as he ceases to have such a right to return to work while not acting as an employee, officer or director.

The reason for the termination of office or employment of a Participant shall be determined by reference to Rules 9.1 to 9.2 regardless of whether such termination was lawful or unlawful.

## **10 TAKEOVERS AND OTHER CORPORATE EVENTS**

### **10.1 General offers**

If any person (or any group of persons acting in concert):

- (a) obtains Control of the Company as a result of making a general offer to acquire the whole of the issued share capital of the Company; or
- (b) obtains Control of the Company as a result of making a general offer to acquire all the shares in the Company which are of the same class as the Shares

the Board shall, within seven days of becoming aware of that event, notify every Participant of it and subject to Rule 6.1 (*Restrictions on vesting: regulatory and tax issues*) and Rule 10.3 (*Internal reorganisations*), and unless the Agreement otherwise provides, the Committee may determine that all Awards shall (i) Vest to the extent that the Performance Conditions are deemed satisfied over the shortened period from the start of the Performance Period to the date of the Change of Control, or (ii) Vest to the extent that the Committee sees fit if it decides at its discretion to waive such Performance Condition in whole or in part. The Committee may in addition determine that Awards shall be scaled back to reflect the period between the start of the Performance Period and the date of the Change of Control as a proportion of the Performance Period as a whole.

## **10.2 Schemes of arrangement and winding-up**

In the event that:

- (a) a compromise or arrangement is sanctioned by the Court under the law of the jurisdiction in which the Company is based in connection with or for the purposes of a Change in Control of the Company;
- (b) the Company passes a resolution for a voluntary winding up of the Company; or
- (c) an order is made for the compulsory winding-up of the Company

then unless the Agreement otherwise provides, and subject to Rule 6.1 (*Restrictions on vesting: regulatory and tax issues*) and Rule 10.3 (*Internal reorganisations*), the Committee may determine that all Awards shall, (i) Vest to the extent that the Committee determines that Performance Conditions are deemed to be satisfied over the shortened period from the start of the Performance Period to the date of the relevant event described at (a) to (c) above, or (ii) Vest to the extent that the Committee sees fit if it decides at its discretion to waive such Performance Condition in whole or in part. The Committee may in addition determine that Awards shall be scaled back to reflect the period between the start of the Performance Period and the date of the Change of Control as a proportion of the Performance Period as a whole.

## **10.3 Internal reorganisations**

In the event that:

- (a) a company is expected to obtain Control of the Company as a result of an offer referred to in Rule 10.1 (*General offers*) or a compromise or arrangement referred to in Rule 10.2(a) (*Schemes of arrangement and winding-up*); and
- (b) at least 75% of the shares in the Acquiring Company are expected to be held by substantially the same persons who immediately before the obtaining of Control of the Company were shareholders in the Company

then the Committee, with the consent of the Acquiring Company, may decide before the obtaining of such Control that an Award shall not Vest under Rule 10.1 (*General offers*) or Rule 10.2 (*Schemes of arrangement and winding-up*) but shall be automatically surrendered in consideration for the grant of a new award which the Committee determines is equivalent to the Award it replaces, except that it will be over shares in the Acquiring Company or some other company.

The Rules will apply to any new award granted under this Rule 10.3 as if references to Shares were references to shares over which the new award is granted and references to the Company were references to the company whose shares are subject to the new award.

## **11 ADJUSTMENT OF AWARDS**

### **11.1 General rule**

In the event of:

- (a) any variation of the share capital of the Company; or
- (b) a demerger, special dividend or other similar event which affects the market price of Shares to a material extent,

the Committee may make such adjustments as it considers appropriate to the number of Shares comprised in an Award.

## **12 AMENDMENTS**

### **12.1 General rule on amendments**

Except as described in Rule 12.2 (*Shareholder approval*) and Rule 12.4 (*Amendments to the disadvantage of Participants*) the Committee may at any time amend the Plan or the terms of any Award granted under it.

### **12.2 Shareholder approval**

Except as described in Rule 12.3 (*Exception to shareholder approval*), no amendment to the material advantage of an individual to whom an Award has been or may be granted shall be made under Rule 12.1 (*General rule on amendments*) to the provisions concerning the overall limits on the issue of Shares without the prior approval by ordinary resolution of the members of the Company in general meeting.

### **12.3 Exception to shareholder approval**

Rule 12.2 (*Shareholder approval*) shall not apply to any minor amendment to benefit the administration of the Plan, to take account of a change in legislation or to obtain or maintain favourable tax, exchange control or regulatory treatment for Participants or any Group Company.

### **12.4 Amendments to the disadvantage of Participants**

No amendment to the material disadvantage of Participants (other than a change to any Performance Condition) shall be made under Rule 12.1 (*General rule on amendments*) unless:

- (a) the Board shall have invited every relevant Participant to indicate whether or not he approves the amendment; and
- (b) The amendment is approved by a majority of those Participants who have given such an indication.

### **12.5 Amendments to a Performance Condition**

The Committee may amend any Performance Conditions without prior shareholder approval if:

- (a) an event has occurred which causes the Committee reasonably to consider that it would be appropriate to amend the Performance Conditions;
- (b) the amended Performance Condition will, in the reasonable opinion of the Committee, be not materially less difficult to satisfy than the unamended Performance Conditions would have been but for the event in question; and
- (c) the Committee acts fairly and reasonably in making the amendment.

## **13 MISCELLANEOUS**

### **13.1 Employment**

The rights and obligations of any individual under the terms of his office or employment with any Group Company shall not be affected by his participation in the Plan or any right which he may have to participate in it. An individual who participates in the Plan waives any and all rights to compensation or damages in consequence of the termination of his office or employment for any reason whatsoever insofar as those rights arise or may arise from him ceasing to have rights under an Award as a result of such termination. Participation in the Plan shall not confer a right to continued employment upon any individual who participates in it. The grant of any Award does not imply that any further Award will be granted nor that a Participant has any right to receive any further Award.

### **13.2 Disputes**

In the event of any dispute or disagreement as to the interpretation of the Plan, or as to any question or right arising from or relating to the Plan, the decision of the Committee shall be final and binding upon all persons.

### **13.3 Exercise of powers and discretions**

The exercise of any power or discretion by the Committee shall not be open to question by any person and a Participant or former Participant shall have no rights in relation to the exercise of or omission to exercise any such power or discretion.

### **13.4 Share rights**

All Shares allotted under the Plan shall rank equally in all respects with Shares then in issue except for any rights attaching to such Shares by reference to a record date before the date of the allotment.

Participants shall be entitled to all rights attaching to Shares transferred to a Participant pursuant to the Vesting of an Award by reference to a record date on or after the date of such transfer.

### **13.5 Notices**

Any notice or other communication under or in connection with the Plan may be given:

- (a) by personal delivery or by post, in the case of a company to its registered office, and in the case of an individual to his last known address, or, where he is a director or employee of a Group Company, either to his last known address or to the address of the place of business at which he performs the whole or substantially the whole of the duties of his office or employment;
- (b) in an electronic communication to their usual business address or such other address for the time being notified for that purpose to the person giving the notice; or
- (c) by such other method as the Committee determines.

### **13.6 Third parties**

No third party has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Plan.

### **13.7 Benefits not pensionable**

Benefits provided under the Plan shall not be pensionable.

### **13.8 Data protection**

Each Participant consents to the collection, processing and transfer of his personal data for any purpose relating to the operation of the Plan. This includes:

- (a) providing personal data to any Group Company and any third party such as trustees of any employee benefit trust, administrators of the Plan, registrars, brokers and any of their respective agents;
- (b) processing of personal data by any such Group Company or third party;
- (c) transferring personal data to a country outside the European Economic Area (including a country which does not have data protection laws equivalent to those prevailing in the European Economic Area); and
- (d) providing personal data to potential purchasers of the Company, the Participant's employer or the business in which the Participant works.

### **13.9 Governing law**

The Plan and all Awards shall be governed by and construed in accordance with the law of England and Wales and the Courts of England and Wales have exclusive jurisdiction to hear any dispute.

**NOMAD FOODS LIMITED**

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**LONG TERM 2015 INCENTIVE PLAN  
ISSUE [ ]  
RESTRICTED SHARE UNIT AGREEMENT**

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**THIS AGREEMENT** is made the [ ] day of [ ], 20[ ]

- (1) **Nomad Foods Limited**, a public company limited by shares and incorporated under the laws of the British Virgin Islands (the "Company"); and
- (2) [**Participant name**], ("you").

**WHEREAS:-**

- (A) The Company has adopted the Nomad Foods Limited Long Term 2015 Incentive Plan (as changed from time to time and as modified for UK Eligible Persons by the UK Sub-Plan) (the "**Plan**") for the benefit of employees and directors of the Company and Group Companies; and
- (B) The Committee has authorised the Award to you of Restricted Share Units under the Plan, on the terms and conditions set out in the Plan and this Agreement (as may be amended or supplemented from time to time).

**IT IS AGREED:-**

**1. INTERPRETATION**

- 1.1 Terns defined in the rules of the Plan (but not defined in this Agreement) have the same meaning in this Agreement as in the rules of the Plan, unless the context requires otherwise, and except as set out below:

"Award Shares" has the meaning given to that term in Clause 2.1;

"Performance Conditions" means the performance conditions set out in Schedule 1 to this Agreement;

"Performance Period" ;

"Vesting Date" means <date>

- 1.2 The rules of interpretation in the Plan also apply to this Agreement.

**2. GRANT OF AWARD**

- 2.1 Subject to the other terms of this Agreement and the rules of the Plan (which are incorporated into the Agreement by reference), the Company hereby grants to you an Award in the form of Restricted Share Units over [number] ordinary shares in the Company (the "**Award Shares**").
- 2.2 By accepting the Award, you confirm your commitment to remain employed by a Group Company at least until such time as the Award Vests.
- 2.3 The Award is made effective as of <date>

**3. VESTING AND LAPSE OF AWARD**

- 3.1 The Award will Vest only in accordance with the rules of the Plan and the terms of this Agreement.
- 3.2 The Award will Vest on the Vesting Date only if, and to the extent that, the Performance Conditions are satisfied and subject to the employment condition outlined in Schedule 1
- 3.3 The Award will not Vest until the Vesting Date except where earlier Vesting is permitted by Rule 9 or Rule 10 of the Plan. In the event that the Award Vests under Rule 10.1 or Rule 10.2 of the Plan, the Committee will have the option to scale back the Award to reflect the period between the start of the Performance Period and the date of the Change of Control as a proportion of the Performance Period as a whole.
- 3.4 In the event that (i) a Change of Control occurs, (ii) the Award does not Vest as a result of the Change of Control under Rule 10.1 or Rule 10.2 of the Plan, and (iii) your office or employment with a Group Company is terminated by a Group Company, or you are given notice of the termination of your office or employment with a Group Company, within 183 days following the Change of Control (except in circumstances where termination is for Misconduct), then, unless, the Committee determines otherwise, you will be considered to be a Good Leaver, and the provisions of Rule 9.1 will apply to the Award.
- 3.5 The Award may lapse if certain events occur, in accordance with the rules of the Plan.

#### **4. SHARE ISSUANCE AND CERTIFICATES**

- 4.1 As and when the Restricted Share Units Vest under to this Agreement and the Plan, the Company will issue and allot (or, as appropriate, transfer or procure the transfer of) the Award Shares which have Vested to you as soon as administratively practicable after such Vesting and in any event no later than 30 days thereafter.

#### **5. TERMS OF AWARD**

- 5.1 The Award is subject to the rules of the Plan (which are incorporated by reference in the Agreement).
- 5.2 The rules of the Plan take precedence over any conflicting statement about the terms of the Award in this Agreement.
- 5.3 You will have no right to vote and no right to any dividends with respect to the Award Shares subject to this Award until and only to the extent that the Award Vests in accordance with Clause 3.
- 5.4 This Agreement, the Award and the Award Shares awarded under this Agreement are subject to such rules and regulations as the Committee may adopt pursuant to the Plan. All decisions of the Committee upon any question arising under the Plan or under this Agreement shall be final, conclusive and binding upon you and any other person claiming any interest in the Award.
- 5.5 The terms of this Award of Restricted Share Units as evidenced by this Agreement may be amended by the Committee without your approval, subject however to the limitations set out in the Plan or may be amended by written agreement between you and the Company. The Company reserves the right to amend the Plan at any time, subject to any limitations set out in the Plan.

#### **6. WITHHOLDING**

- 6.1 You agree that you are responsible for paying any Tax and Social Security Liability arising in connection with the Award, and that the Company and any Group Company are entitled to deduct and withhold from any payment of any kind otherwise due to you the minimum amount necessary to satisfy their withholding obligations in respect of any such Tax and Social Security Liability.
- 6.2 To enable the Company and any Group Company to discharge its or their withholding obligations, you irrevocably agree to authorize any Group Company to withhold from the Award Shares that would otherwise Vest or be deliverable to you the number of Award Shares that have a market value, as of the date the Tax and Social Security Liability arises, less than or equal to the amount of the Tax and Social Security Liability.
- 6.2 The Tax Liability in Clause 6.1 does not include employer Social Security contributions.

**7. CLAWBACK**

- 7.1 You irrevocably agree that the provisions of Schedule 2 to this Agreement apply to the Award.

**8. MISCELLANEOUS**

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- 8.1 You acknowledge and irrevocably agree that your rights and obligations under the terms of your office or employment with the Company or any Group Company are not affected by the grant of the Award. The grant of the Award does not confer on you any right with respect to continuance of employment by the Company or any Group Company, nor does it interfere in any way with the right of the Company to terminate your employment at any time. The grant of the Award to you does not entitle you to any further grants of Awards on any future occasion. You have no rights to compensation or damages in consequence of the termination of your office or employment with the Company or any Group Company for any reason whatsoever, whether or not in breach of contract, insofar as those rights arise or may arise from the loss or diminution in value of the Award or the Award Shares.
- 8.2 No waiver at any time of any term or provision of this Agreement shall be construed as a waiver of any other term or provision of this Agreement and a waiver at any time of any term or provision of this Agreement shall not be construed as a waiver at any subsequent time of the same term or provision.
- 8.2 All headings set forth in this Agreement are intended for convenience only and do not control or affect the meaning, construction or effect of this Agreement or of any of the provisions hereof.
- 8.3 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. Transmission of an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) by (a) fax or (b) email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter. No counterpart shall be effective until each party has executed and delivered at least one counterpart.
- 8.4 A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 8.5 This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. You and the Company agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes and claims).

In witness whereof the parties hereto have executed this Agreement on  
day of

**Company**

**Participant**

By: \_\_\_\_\_ By: \_\_\_\_\_

Its \_\_\_\_\_

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## SCHEDULE 1

### PERFORMANCE CONDITIONS

The Vesting of the Award is subject to the satisfaction of the Performance Conditions set out in this Schedule 1 as of the Vesting Date.

The Performance Conditions are made up of two elements:

- A condition relating to certain financial measures of performance, which are measured over the period of three years from <date> to <date>, and which are set out in Section 1 below (the “**Performance Measures**”), and
- A condition relating to continued employment, which is measured over the period up to the Vesting Date, <date>, as set out in Section 2 below (the “**Continued Employment Condition**”).

For the purpose of determining the Performance Measures, the Award is divided into three tranches, each with its own performance test. These are:

- The EBITDA Tranche,
- The Net Sales Tranche, and
- The Share Price Tranche.

Each Tranche will only Vest (a) if, and to the extent that, the Performance Measure applying to that Tranche as set out in Section 1 below has been satisfied and (b) if the Continued Employment Condition has been satisfied.

#### 1. PERFORMANCE MEASURES

##### 1.1 EBITDA Tranche

The EBITDA Tranche is comprised of one third of the total number of Award Shares specified in Clause 2.1 of the Agreement (the “**EBITDA Shares**”). The performance test which applies to the EBITDA Tranche relates to cumulative adjusted EBITDA between <date> and <date> (the “**EBITDA Test**”). As soon as reasonably practicable after <date> the Company’s cumulative adjusted EBITDA for the period <date> and <date> will be determined by the Committee. The percentage of EBITDA Shares which will Vest (subject to the Continued Employment Condition) shall be determined based on Cumulative Adjusted EBITDA for the period <date> and <date>, in accordance with the following table:

Cumulative Adjusted EBITDA for the period <date> to <date>	Percentage of EBITDA Shares that will Vest
Less than EUR xxx mio	x%
At least EUR xxx mio, but less than EUR xxx mio	x%
EUR xxx mio	x%
More than EUR xxx mio, but less than EUR xxx mio	x%
EUR xxx mio or more	x%

In addition, the following will apply to the EBITDA Tranche:

- (i) the EBITDA Test must be achieved, if at all, as at <date> and, therefore, cannot be achieved before that date;
- (ii) in assessing whether the EBITDA Test has been achieved, the Committee may use such accounting methods, assumptions, guidance and principles as it in its reasonable discretion sees fit;
- (iii) the EBITDA Test may be adjusted by the Committee to reflect any acquisitions or divestitures by the Company after the date of this Agreement (based on business case assumptions minus synergies in years x-x); and
- (iv) “**cumulative adjusted EBITDA**” may be adjusted and calculated in a way which is consistent with how the Company reports (or plans to report) to the public and should there be a change in the way the Company so reports, EBITDA will be adjusted equitably to reflect the changes.

## 1.2 Net Sales Tranche

The Net Sales Tranche is comprised of one third of the total number of Award Shares specified in Clause 2.1 of the Agreement (the **Net Sales Shares**). The performance test which applies to the Net Sales Tranche relates to cumulative Net Sales between <date> and <date> (the **Net Sales Test**). As soon as reasonably practicable after <date> the Company’s cumulative Net Sales for the period <date> and <date> will be determined by the Committee. The percentage of Net Sales Shares which will Vest (subject to the Continued Employment Condition) shall be determined based on Cumulative Net Sales for the period <date> and <date>, in accordance with the following table:

Cumulative Net Sales for the period <date> to <date>	Percentage of Net Sales Shares that will Vest
Less than EUR xxx mio	x%
At least EUR xxx mio, but less than EUR xxx mio	x%
EUR xxx mio	x%
More than EUR xxx mio, but less than EUR xxx mio	Increasing on a straight- line basis between x% and x%
EUR xxx mio or more	x%

## 1.3 Share Price Tranche

The Share Price Tranche is comprised of one third of the total number of Award Shares specified in Clause 2.1 of the Agreement (the **Share Price Shares**). The performance test which applies to the Share Price Tranche relates to the Company’s share price performance between <date> and <date> (the **Share Price Test**). The percentage of Share Price Shares that will Vest (subject to the Continued Employment Condition) will be based on the VWAP of the ordinary shares of the Company reaching one of the Share Price Thresholds specified in the table below for a continuous period of x trading days between <date> and <date>, on in accordance with the following table:

Share Price Vesting Threshold	Percentage of Share Price Shares that will vest
Less than \$x	x%
\$x	x%
\$x	x%
\$x	x%

For this purpose:

1. The **“Share Price Vesting Threshold”** is the level of the VWAP of the ordinary shares of the Company on the New York Stock Exchange (or such other exchange on which the Company maintains its principal listing) which must be exceeded for a continuous period of at least x trading days during the Measurement Period in order for the specified percentage of Third Tranche Award Shares to Vest.
2. **“VWAP”** means, as of any date or relevant period, as applicable, the volume weighted average price for an ordinary share of the Company on the New York Stock Exchange (or such other exchange on which the Company maintains its principal listing) as reported by Bloomberg through its “Volume at Price” function (or such other data reporting service as may be determined by the Committee in its sole discretion); provided however, if the ordinary shares of the Company do not trade on any exchange, the VWAP will be the last closing trade price of an ordinary share of the Company in the over-the-counter market on the electronic bulletin board for that security as reported by Bloomberg (and if no last closing trade price is reported for an ordinary share of the Company by Bloomberg, the last closing ask price of an ordinary share of the Company as reported by Bloomberg). If the VWAP cannot be calculated for an ordinary share of the Company on that date on any of the foregoing bases, the VWAP of an ordinary share of the Company on such date will be the fair market value as determined by the Committee.

#### 1.4 Adjustments to the Performance Measures

If an event occurs which, in the reasonable opinion of the Committee, means that a Performance Measure is no longer appropriate, the Committee may vary or waive that Performance Measure, provided that the varied Performance Measure is (in the reasonable opinion of the Committee) a fairer measure of performance than the original Performance Measure, as judged at the time of the variation, and no more difficult to satisfy than the original Performance Measure was at the Grant Date.

## 2. CONTINUED EMPLOYMENT CONDITION

- 2.1 The relevant portion Award that would vest based on the Performance Measures will Vest only if you are a director or employee of a Group Company on the Vesting Date and are not then under notice of termination of office or employment (whether given by you, your employer or any other Group Company), unless the Committee determines in its absolute discretion to allow the Award to Vest notwithstanding that you are no longer a director or employee of a Group

Company on the Vesting Date or that notice has been given (but, in each case, subject always to the satisfaction of the relevant Performance Measures).

- 2.2 The Award will lapse if you voluntarily cease to be a director or employee of a Group Company between <date> and the Vesting Date, unless the Company's Chief Executive Officer and Human Resources Director (or the Committee in the case of Board Members) determine in their absolute discretion to allow the Award to continue to exist and to Vest on the Vesting Date (subject always to the satisfaction of the relevant Performance Measures).
-

## SCHEDULE 2

### CLAWBACK

#### 1. CIRCUMSTANCES IN WHICH CLAWBACK CAN APPLY

1.1 This Schedule 2 applies in relation to the Award if:

- (a) either or both of paragraphs 1.2 and/or 1.3 apply; and
- (b) paragraph 1.4 applies.

1.2 This paragraph 1.2 applies in relation to an Award if the Committee, at its discretion, determines that any of the following circumstances exist:

- (a) you have participated in or were responsible for conduct which resulted in significant losses to a Group Company;
- (b) you have failed to meet appropriate standards of fitness and propriety;
- (c) the Company has reasonable evidence of fraud or material dishonesty by you;
- (d) the Company has become aware of any material wrongdoing on your part;
- (e) you have acted in any manner which in the opinion of the Committee has brought or is likely to bring any Group Company into material disrepute or is materially adverse to the interests of any Group Company;
- (f) there is a breach of your employment contract that is a potentially fair reason for dismissal;
- (g) you are in breach of a fiduciary duty owed to any Group Company or any client or customer of any Group Company;
- (h) you whether alone or with others entice or otherwise encourage a team or group of Employees to move to another firm;
- (i) you have ceased to be an employee but were in breach of your employment contract or fiduciary duties in a manner that would have prevented the grant or Vesting of the Award had the Company been aware (or fully aware) of that breach, and which the Company was not aware (or not fully aware) until after:
  - (i) both:
    - (aa) you ceased to be an employee; and
    - (bb) the time Award Vested; or
  - (ii) there was a material error in:
    - (aa) determining whether the Award should be granted; or
    - (bb) determining the size and nature of the Award.

- 1.3 This paragraph 1.3 applies in relation to an Award if the Committee, at its discretion, determines that either of the following circumstances exist:
- (a) a Group Company mis-stated any financial information (whether audited or not) for any part of any financial year that was taken into account in:
    - (i) determining whether the Award should be made; or
    - (ii) determining the size and nature of the Award; or
  - (b) a Group Company or business unit that employs or employed you, or for which you are responsible, has suffered a material failure of risk management.
- 1.4 This paragraph 1.4 applies in relation to an Award if the Committee, at its discretion, determines that, if the circumstances mentioned in paragraphs 1.2 or 1.3 had existed, and the Committee had been fully aware that they existed at the date on which the Award was granted, then:
- (a) the Committee would not have granted the Award; or
  - (b) the Committee would have granted the Award in relation to a smaller number of Restricted Share Units.
- 1.5 If the Committee makes a determination in relation to an Award under this paragraph 1, it must do so within three years of the Vesting Date.

## 2. OPERATION OF CLAWBACK

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- 2.1 This paragraph 2 applies to an Award if paragraph 1 applies to the Award.
- 2.2 If at the end of the determination under paragraph 1.4, the Award has Vested, the Committee may determine a Clawback Amount in relation to the Award.
- 2.3 The Clawback Amount shall be such amount as the Committee considers to be fair and reasonable, taking account of all circumstances that the Committee considers to be relevant.
- 2.4 If you have paid or are liable to pay any amount of a Tax and Social Security Liability which cannot be recovered from or repaid by any relevant tax authority (whether directly or indirectly), the Committee may in its discretion decide to, or where paragraph 1.3 applies, will, reduce the Clawback Amount to take account of this amount. In deciding whether to reduce the Clawback Amount, the Committee shall take account of such factors as it thinks fit, which may include market practice, corporate governance rules and guidelines, and the expectations of shareholders.
- 2.5 For the avoidance of doubt, the Committee is not obliged to determine a Clawback Amount in relation to any particular Award, even if the Committee does determine a Clawback Amount in relation to other Awards to the same or other holders of Awards which were granted or which Vested on the same date or dates.
- 2.6 You shall reimburse the Company for the Clawback Amount, in any way acceptable to the Committee, on or as soon as possible after the Committee determines a Clawback Amount in relation to the Award. If you fail to reimburse the Company within 30 days after the determination, the Company shall obtain reimbursement from you in any (or a combination) of the following ways:
- (a) by reducing or cancelling any cash bonus payable to you by any Group Company;
  - (b) by reducing or cancelling any future or existing award made or option granted to you under any other share incentive plan or bonus plan operated by any Group Company (other than a Schedule 2 SIP or a Schedule 3 SAYE option plan, as those terms are defined in ITEPA);
  - (c) by requiring you to make a cash payment to a Group Company; or
  - (d) by reducing your salary.
- 2.7 If you participate in another share incentive plan or bonus plan operated by a Group Company, and that other plan contains a provision that has a similar effect to paragraph 1, the Committee may give effect to that provision by causing the Award to lapse for no consideration in respect of such number of Award Shares (up to the total number of Award Shares) as the Committee considers to be fair and reasonable.

## SIGNIFICANT SUBSIDIARIES OF NOMAD FOODS LIMITED

Name	Activity	Country of incorporation	Ownership as of December 31, 2019
Nomad Foods Europe Holdings Limited	Holding	England	100%
Nomad Foods Europe Holdco Limited	Holding	England	100%
Nomad Foods Europe Finco Limited	Holding	England	100%
Nomad Foods Europe Midco Limited	Holding/Finance	England	100%
Nomad Foods Bondco Plc	Finance	England	100%
Nomad Foods Lux S.à.r.l.	Finance	Luxembourg	100%
Nomad Foods Europe Limited	Management	England	100%
Birds Eye Limited	Trading	England	100%
Nomad Foods Europe Finance Limited	Finance	England	100%
Aunt Bessie's Limited	Non-Trading	England	100%
Birds Eye Ireland Limited	Trading	Republic of Ireland	100%
Birds Eye Ireland Oldco Unlimited Company	Non-Trading	Republic of Ireland	100%
Iglo Holding GmbH	Holding	Germany	100%
Iglo Nederland B.V.	Trading	Netherlands	100%
Iglo Belgium S.A.	Trading	Belgium	100%
Iglo Portugal	Trading	Portugal	100%
Iglo Austria Holdings GmbH	Holding	Austria	100%
C.S.I. Compagnia Surgelati Italiana S.R.L.	Trading	Italy	100%
Findus Sverige Holdings AB	Holding	Sweden	100%
Iglo GmbH	Trading	Germany	100%
Frozen Fish International GmbH	Trading	Germany	100%
Liberator Germany Newco GmbH	Property	Germany	100%
Iglo Austria GmbH	Trading	Austria	100%
Findus Sverige AB	Trading	Sweden	100%
Frionor Sverige AB	Holding	Sweden	100%
Findus Holdings France SAS	Holding	France	100%
Findus France SAS	Trading	France	100%
Findus Espana SLU	Trading	Spain	100%
Findus Danmark A/S	Trading	Denmark	100%
Findus Finland Oy	Trading	Finland	100%
Findus Norge AS	Trading	Norway	100%
Findus Norge Holding AS	Holding	Norway	100%
Toppfrys AB	Trading	Sweden	81%

## CERTIFICATION

I, Stéfan Descheemaeker, certify that:

1. I have reviewed this annual report on Form 20-F of Nomad Foods Limited;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: February 27, 2020

/s/ Stéfan Descheemaeker

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Stéfan Descheemaeker  
Chief Executive Officer

## CERTIFICATION

I, Samy Zekhout, certify that:

1. I have reviewed this annual report on Form 20-F of Nomad Foods Limited;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: February 27, 2020

/s/ Samy Zekhout

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Samy Zekhout  
Chief Financial Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with this annual report on Form 20-F of Nomad Foods Limited (the "Company") for the year ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Stéfán Descheemaeker, Chief Executive Officer of the Company, hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (i) The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
- (ii) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 27, 2020

/s/ Stéfán Descheemaeker

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Stéfán Descheemaeker

Chief Executive Officer

*(Principal Executive Officer)*

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of this Report.

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with this annual report on Form 20-F of Nomad Foods Limited (the "Company") for the year ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Samy Zekhout, Chief Financial Officer of the Company, hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (i) The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
- (ii) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 27, 2020

/s/ Samy Zekhout

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Samy Zekhout

Chief Financial Officer

*(Principal Financial Officer)*

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of this Report.

**Consent of Independent Registered Public Accounting Firm**

We hereby consent to the incorporation by reference in the Registration Statements on Form F-3 (Nos. 333-217044 and 333-225402) and Form S-8 (No. 333-211095) of Nomad Foods Limited of our report dated February 27, 2020 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 20-F.

/s/ PricewaterhouseCoopers LLP  
London, United Kingdom  
February 27, 2020