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INTERNATIONAL FLAVORS & FRAGRANCES INC

Form 8-K

November 29, 2005

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported) November 22, 2005

INTERNATIONAL FLAVORS & FRAGRANCES INC.

(Exact Name of Registrant as Specified in Charter)

New York	1-4858	13-1432060
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(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

521 West 57th Street, New York, N	10019
-----	-----
(Address of Principal Executive O	(Zip Code)

Registrant's telephone number, including area code (212) 765-5500

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

On November 23, 2005, International Flavors & Fragrances Inc., a New York corporation (the "Company"), International Flavors & Fragrances (Luxembourg)

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S.a.r.l., a Luxembourg corporation ("IFF Lux"), and certain of the Company's subsidiaries (the "Subsidiaries" and together with the Company and IFF Lux, the "Company Parties") entered into a multi-currency revolving credit facility agreement (the "Facility Agreement") among the Company Parties, the banks named therein, including Citigroup Global Markets Limited, Fortis Bank S.A./N.V., Bank of America N.A., Bank of Tokyo-Mitsubishi Trust Company, BNP Paribas, ING Bank N.V., JP Morgan Chase and Wachovia Bank, National Association, as mandated lead arrangers, and Citibank International PLC, as Facility Agent.

The Facility Agreement provides for a dual tranche, five-year US \$350,000,000 ("Tranche A") and Euro 400,000,000 ("Tranche B") multi-currency revolving credit facility, which replaces the Terminated Agreements referred to in Item 1.02 below. Tranche A is available to the Company for general corporate purposes, for repayment of outstanding amounts under the September 2001 Agreement referred to in Item 1.02, and for commercial paper backstop purposes, and Tranche B is available to IFF Lux and the Subsidiaries for general corporate purposes and for repayment of outstanding amounts under the July 2002 Agreement referred to in Item 1.02. Borrowings under the Facility Agreement bear interest at an annual rate of LIBOR (or in relation to any loan in Euro, EURIBOR) plus a margin of 20 basis points linked to a ratings grid.

The Company has guaranteed the obligations of its respective subsidiaries under the Facility Agreement.

IFF Lux may approach the lenders prior to each of November 22, 2006 and November 22, 2007 to request the extension of the Facility Agreement for up to an aggregate of two additional years.

The Facility Agreement contains various affirmative and negative covenants customary in a facility of this type, including a covenant requiring the Company to maintain, at the end of each fiscal quarter, a ratio of net debt for borrowed money to EBITDA in respect of the previous 12-month period of not more than 3.25 to 1.

The Company is required to pay a commitment fee payable quarterly in arrears of 30% of the margin per annum on the aggregate unused and uncanceled commitments under the Facility Agreement. An additional utilization fee of 2.5 basis points is payable if such outstanding amounts exceed 50% of the aggregate commitments under the Facility Agreement.

Unless extended, the Facility Agreement will expire on November 22, 2010, at which time all outstanding amounts under the Facility Agreement will be due and payable. In the event of an event of default, the lenders may terminate the Facility Agreement and declare any principal amount then outstanding and all accrued interest, fees and other amounts payable under the Facility Agreement to be immediately due and payable. Defaults under the Facility Agreement which could result in the acceleration by the lenders of the obligations of the Company Parties include a change of control of the Company (as defined in the Facility Agreement) and certain acquisitions made in contemplation of a merger where as a direct result of the acquisition, the public debt rating of the Company quoted by Moody's or S&P (including any change in terms of its outlook) is a lower rating than its public debt rating immediately prior to such acquisition.

Some of the lenders under the Facility Agreement and their affiliates have various relationships with the Company, IFF Lux and the Subsidiaries involving the provision of financial services, including cash management, investment banking and trust services.

Item 1.02. Termination of a Material Definitive Agreement

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Concurrently with the effectiveness of the Facility Agreement described in Item 1.01 above, the Company terminated its US \$300,000,000 revolving credit facility dated September 26, 2001 (the "September 2001 Agreement") by the Company, certain initial lenders named therein, Citibank N.A., as Administrative Agent, and Salomon Smith Barney Inc., as Arranger.

Concurrently with the effectiveness of the Facility Agreement described in Item 1.01 above, IFF Lux, terminated its Euro 350,000,000 revolving credit facility dated July 19, 2002 (the "July 2002 Agreement") by IFF Lux, the banks named therein, ABN AMRO Bank NV and Barclays Capital, as Mandated Lead Arrangers, and Barclays Bank PLC, as Facility Agent. The September 2001 Agreement and the July 2002 Agreement are referred to herein together as the "Terminated Agreements".

The commitment of the lenders under the Terminated Agreements to make loans was scheduled to expire on September 26, 2006 under the September 2001 Agreement and on July 19, 2007 under the July 2002 Agreement. The Company did not incur any material termination penalties to exit the agreements.

Borrowings under the September 2001 Agreement bore interest at LIBOR plus a margin linked to a price grid, and borrowings under the July 2002 Agreement bore interest at EURIBOR plus a margin linked to a price grid. The interest rates were subject to change from time-to-time based on the rating for any class of non-credit enhanced long-term senior unsecured debt issued by the Company. There are no outstanding amounts being transferred to the new facility and there are no material changes in terms under the new agreements.

The Terminated Agreements contained customary representations, warranties, covenants and events of default.

Some of the lenders under the Terminated Agreements and their affiliates have various relationships with the Company and its subsidiaries involving the provision of financial services, including cash management, investment banking and trust services.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth under Item 1.01 is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits

Exhibit No.	Document
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4.1	Multi-Currency Revolving Facility Agreement, dated November 22, 2005, among International Flavors & Fragrances Inc., International Flavors & Fragrances (Luxembourg) S.a.r.l., certain subsidiaries, the banks named therein, including Citigroup Global Markets Limited, Fortis Bank S.A./N.V, Bank of America N.A., Bank of Tokyo-Mitsubishi Trust Company, BNP Paribas, ING Bank N.V., JP Morgan Chase and Wachovia Bank, National Association, as mandated lead arrangers, and Citibank International PLC, as Facility Agent.
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SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

INTERNATIONAL FLAVORS & FRAGRANCES INC.

Dated: November 28, 2005

By: /s/ Douglas J. Wetmore

Name: Douglas J. Wetmore
Title: Senior Vice President and
Chief Financial Officer

23 November 2005

INTERNATIONAL FLAVORS & FRAGRANCES S.A.R.L.

AND OTHERS

as Borrowers

INTERNATIONAL FLAVORS & FRAGRANCES INC.

as Guarantor and Parent

CITIGROUP GLOBAL MARKETS LIMITED
FORTIS BANK S.A./N.V.
BANK OF AMERICA, N.A.
BANK OF TOKYO-MITSUBISHI
BNP PARIBAS
ING BANK N.V.
J.P. MORGAN SECURITIES INC.
WACHOVIA BANK, NATIONAL ASSOCIATION

as Mandated Lead Arrangers

with

CITIBANK INTERNATIONAL PLC

acting as Agent and Euro Swingline Agent

and

CITIBANK N.A.

as US Swingline Agent

MULTICURRENCY REVOLVING FACILITY AGREEMENT

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THIS AGREEMENT is dated 23 November 2005 and made between:

- (1) INTERNATIONAL FLAVORS & FRAGRANCES (LUXEMBOURG) S.A.R.L, a company (societe a responsabilite limitee) incorporated in Luxembourg and registered with the Register of Commerce and Companies of Luxembourg under number B 79234 and having its registered address at 6 rue de Mamer, L-8081 Bertrange, Grand-Dutchy of Luxembourg, with a share capital of EUR 163,360,000 (the "Company");
- (2) THE COMPANIES listed as original borrowers in Part A of Schedule 1 (The Original Parties) (the "Original Borrowers");
- (3) INTERNATIONAL FLAVORS & FRAGRANCES INC. as guarantor (the "Guarantor");
- (4) INTERNATIONAL FLAVORS & FRAGRANCES INC. as parent (the "Parent");
- (5) CITIGROUP GLOBAL MARKETS LIMITED, FORTIS BANK S.A./N.V., bank of America, n.a., BANK OF TOKYO-MITSUBISHI, BNP PARIBAS, ING BANK N.V., J.P. MORGAN securities inc. and WACHOVIA BANK, NATIONAL ASSOCIATION, as mandated lead arrangers (the "Mandated Lead Arrangers");
- (6) THE FINANCIAL INSTITUTIONS listed in Part BI of Schedule 1 (The Original Parties) as lenders (the "Original Lenders");
- (7) THE FINANCIAL INSTITUTIONS listed in Part BII of Schedule 1 (The Original Parties) as swingline lenders (the "Original Swingline Lenders");
- (8) CITIBANK N.A. as agent for the Dollar Swingline Facility (the "US Swingline Agent");
- (9) CITIBANK INTERNATIONAL PLC as agent for the Euro Swingline Facility (the "Euro Swingline Agent"); and
- (10) CITIBANK INTERNATIONAL PLC as agent of the Lenders (the "Agent").

IT IS AGREED as follows:

SECTION 1. INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"Additional Borrower" means a company which becomes an Additional Borrower in accordance with Clause 27.2 (Additional Borrowers).

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"Affiliate" means, as to any person, any other person that, directly or indirectly, controls, is controlled by or is under common control with such person or is a director or officer of such person. For purposes of this definition, the term "control" (including the terms "controlling",

"controlled by" and "under common control with") of a person means the possession, direct or indirect, of the power to vote 50% or more of the Voting Stock of such person or to direct or cause the direction of the management and policies of such person, whether through the ownership of Voting Stock, by contract or otherwise.

"Agent" includes the Euro Swingline Agent or the US Swingline Agent (or both of them) where the context permits.

"Agent's Spot Rate of Exchange" means the Agent's spot rate of exchange for the purchase of the relevant currency with the relevant Base Currency in the London foreign exchange market at or about 11:00 a.m. on a particular day.

"Authorisation" means an authorisation, consent, approval, resolution, licence exemption, filing or registration (including, without limitation, the Environmental Permits).

"Applicable Margin" means as of any date, a percentage per annum determined by reference to the Public Debt Rating in effect on such date as set forth below:

Public Debt Rating S&P/Moody's	Applicable Margin
Level 1 ----- A+/A1 or above	0.125%
Level 2 ----- A/A2	0.150%
Level 3 ----- A-/A3	0.175%
Level 4 ----- BBB+/Baa1	0.225%
Level 5 ----- BBB/Baa2	0.275%
Level 6 ----- BBB-/Baa3	0.350%
Level 7 ----- lower than level 6	0.500%

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If the Public Debt Rating shall be changed, the change in Applicable Margin arising as a result of such change shall be effective as of the date on which any change in rating established by S&P or Moody's or both giving rise to such change in the Public Debt Rating is first announced publicly by the relevant rating agency making such change (for greater certainty, it is understood that such date may be a date falling at any time during an Interest Period).

"Availability Period" means the period from and including the date of this Agreement to and including the date falling one Business Day prior to the Termination Date.

"Available Commitment" means the Tranche A Available Commitment or the Tranche B Available Commitment.

"Available Dollar Swingline Commitment" of a Swingline Lender means (but without limiting Clause 7.5 (Relationship with the Revolving Facility)) that Lender's Dollar Swingline Commitment minus:

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

other than that Lender's participation in any Dollar Swingline Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date.

"Available Dollar Swingline Facility" means the aggregate for the time being of each Swingline Lender's Available Dollar Swingline Commitment.

"Available Euro Swingline Commitment" of a Swingline Lender means (but without limiting Clause 7.5 (Relationship with the Revolving Facility)) that Lender's Euro Swingline Commitment minus:

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

other than that Lender's participation in any Euro Swingline Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date.

"Available Euro Swingline Facility" means the aggregate for the time being of each Swingline Lender's Available Euro Swingline Commitment.

"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, in respect of the Tranche A Revolving Facility and the Dollar Swingline Facility, US dollars and, in respect of the Tranche B Revolving Facility and the Euro Swingline Facility, euro.

"Base Currency Amount" means, in relation to a Loan, the amount specified in the Utilisation Request for that Loan (or, if the amount requested is not denominated in the relevant Base Currency, that amount converted into

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the relevant Base Currency at the relevant 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) adjusted to reflect any repayment, prepayment, consolidation or division of the Loan.

"Borrower" means an Original Borrower or an Additional Borrower.

"Break Costs" means the amount (if any) by which:

- (a) the interest (excluding the Applicable 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 Amsterdam, London, Luxembourg and New York and:

- (a) (in relation to any date for payment or purchase of a currency other than euro or any date for the fixing of LIBOR) 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.

"Cash" means at any time, in respect of any member of the Group, cash as defined in the Audit and Accounting Guides issued by the American Institute of Certified Public Accountants of the United States of America (as amended from time to time) which includes as at the date of this Agreement currency on hand, demand deposits with financial institutions and other similar deposit accounts.

"Cash Equivalents" means in respect of any member of the Group, cash equivalents as defined in the Audit and Accounting Guides issued by the American Institute of Certified Public Accountants of the United States of America (as amended from time to time) which includes as at the date of this Agreement short term instruments having not more than three months to final maturity and highly liquid instruments readily convertible to known amounts of cash

"Commitment" means a Tranche A Commitment, a Tranche B Commitment, a Dollar Swingline Commitment or a Euro Swingline Commitment.

"Consolidated" refers to the consolidation of accounts in accordance with GAAP.

"Corporate Bonds" means the US\$700,000,000 of 6.45% notes issued by the Parent in 2001 maturing on 15 May 2006.

"Corporate Bond Repayment Date" means 15 May 2006 or such other date as the Corporate Bonds are repaid.

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"Debt" of any person means, without duplication:

- (a) all indebtedness of such person for borrowed money;
- (b) all obligations of such person for the deferred purchase price of assets or services (other than trade payables not overdue by more than 60 days incurred in the ordinary course of such person's business);
- (c) all obligations of such person evidenced by notes, bonds, debentures or other similar instruments,
- (d) all obligations of such person created or arising under any conditional sale or other title retention agreement with respect to assets acquired by such person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such assets);
- (e) all obligations of such person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases;
- (f) all obligations, contingent or otherwise, of such person in respect of acceptances, letters of credit or similar extensions of credit;
- (g) all obligations of such person in respect of Hedge Agreements;
- (h) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (i) any amount raised by the issue of shares redeemable prior to the Termination Date;
- (j) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (k) all Debt of others referred to in paragraphs (a) through (j) above or paragraph (l) below guaranteed directly or indirectly in any manner by such person, or in effect guaranteed directly or indirectly by such person through an agreement (1) to pay or purchase such Debt or to advance or supply funds for the payment or purchase of such Debt, (2) to purchase, sell or lease (as lessee or lessor) assets, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Debt or to assure the holder of such Debt against loss, (3) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for assets or services irrespective of whether such assets are received or such services are rendered) or (4) otherwise to assure a creditor against loss; and
- (l) all Debt referred to in paragraphs (a) through (k) above secured by (or for which the holder of such Debt has an existing right, contingent or otherwise, to be secured by) any Security on assets (including, without limitation, accounts and contract rights) owned by such person, even though such person has not assumed or become liable for the payment of such Debt.

"Debt for Borrowed Money" of a person means all items that, in accordance with GAAP, would be classified as indebtedness on a Consolidated balance sheet of such person other than any amounts which would be classified as indebtedness, in accordance with GAAP, which arise under any Hedge Agreements.

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"Default" means an Event of Default or any event or circumstance specified in Clause 25 (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"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.

"DNB" means the Dutch Central Bank (De Nederlandsche Bank N.V.).

"Dollar Swingline Commitment" means:

- (a) in relation to a Swingline Lender on the date of this Agreement, the amount in US dollars set opposite its name under the heading "Dollar Swingline Commitment" in Part BII of Schedule 1 (The Original Parties) and the amount of any other Dollar Swingline Commitment transferred to it under this Agreement; and
- (b) in relation to any other Swingline Lender, the amount of any Dollar Swingline Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"Dollar Swingline Facility" means the dollar swingline loan facility made available under this Agreement as described in Clause 2.1(b)(i) (The Facility).

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

"Dutch Borrower" means a Borrower incorporated in the Netherlands.

"Dutch Obligor" means an Obligor incorporated in the Netherlands.

"Dutch Banking Act" means the Dutch Act on the Supervision of the Credit System 1992 (Wet toezicht kredietwezen 1992) as amended from time to time, including the Dutch Exemption Regulation.

"Dutch Civil Code" means the Burgerlijk Wetboek.

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"Dutch Exemption Regulation" means the Exemption Regulation dated 26 June 2002 (as amended from time to time) of the Minister of Finance (Vrijstellingsregeling Wtk 1992), as promulgated in connection with the Dutch Banking Act.

"EBITDA" means, for any Relevant Period, net income (or net loss) plus the sum of:

- (a) interest expense;
- (b) income tax expense;
- (c) depreciation expense;
- (d) amortisation expense and all other non-cash charges; and
- (e) extraordinary or unusual losses deducted in calculating net income

less extraordinary or unusual gains added in calculating net income, in each case determined in accordance with GAAP for the Relevant Period.

"Environmental Action" means any action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, Environmental Permit or Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment, including, without limitation:

- (a) by any governmental or regulatory authority for enforcement, cleanup, removal, response, remedial or other actions or damages; and
- (b) by any governmental or regulatory authority or any third party for damages, contribution, indemnification, cost recovery, compensation or injunctive relief.

"Environmental Law" means any federal, state, local or foreign statute, law, ordinance, rule, regulation, code, order, judgment, decree or judicial or agency interpretation, policy or guidance relating to pollution or protection of the environment, health, safety or natural resources, including, without limitation, those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

"Environmental Permits" means any permit, approval, identification number, license or other authorisation required under any Environmental Law.

"ERISA" means the United States Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"ERISA Affiliate" means any person that for purposes of Title IV of ERISA is a member of the Parent's controlled group, or under common control with the Parent, within the meaning of Section 414 of the United States Internal Revenue Code of 1986 (as amended from time to time) and the regulations promulgated and rulings issued thereunder.

"ERISA Event" means:

- (a) (i) the occurrence of a reportable event, within the meaning of Section 4043 of ERISA, with respect to any Plan unless the 30-day notice requirement with respect to such event has been waived by the PBGC, or (ii) the requirements of subsection (1) of Section 4043(b) of

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ERISA (without regard to subsection (2) of such Section) are met with a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, of a Plan, and an event described in paragraph (9), (10), (11), (12) or (13) of Section 4043(c) of ERISA is reasonably expected to occur with respect to such Plan within the following 30 days;

- (b) the application for a minimum funding waiver with respect to a Plan;
- (c) the provision by the administrator of any Plan of a notice of intent to terminate such Plan pursuant to Section 4041(a)(2) of ERISA (including any such notice with respect to a plan amendment referred to in Section 4041(e) of ERISA);
- (d) the cessation of operations at a facility of the Parent or any ERISA Affiliate in the circumstances described in Section 4062(e) of ERISA;
- (e) the withdrawal by the Parent or any ERISA Affiliate from a Multiple Employer Plan during a plan year for which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA;
- (f) the imposition of a lien under Section 302(f) of ERISA with respect to any Plan;
- (g) the adoption of an amendment to a Plan requiring the provision of security to such Plan pursuant to Section 307 of ERISA; or
- (h) the institution by the PBGC of proceedings to terminate a Plan pursuant to Section 4042 of ERISA, or the occurrence of any event or condition described in Section 4042 of ERISA that constitutes grounds for the termination of, or the appointment of a trustee to administer, a Plan.

"EURIBOR" means, in relation to any Loan in euro:

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for the period of that Loan) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the European interbank market;

as of the Specified Time on the Quotation Day for the offering of deposits in euro for a period comparable to the Interest Period of the relevant Loan.

"Euro Swingline Commitment" means:

- (a) in relation to a Swingline Lender on the date of this Agreement, the amount in euro set opposite its name under the heading "Euro Swingline Commitment" in Part BII of Schedule 1 (The Original Parties) and the amount of any other Euro Swingline Commitment transferred to it under this Agreement; and
- (b) in relation to any other Swingline Lender, the amount of any Euro Swingline Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"Euro Swingline Facility" means the euro swingline loan facility made available under this Agreement as described in Clause 2.1(b)(ii) (The Facility).

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

"Euro Swingline Rate" means, in relation to a Euro Swingline Loan, the percentage rate per annum which is the aggregate of:

- (a) Euro Swingline Reference Bank Rate; and
- (b) the Applicable Margin; and
- (c) Mandatory Cost (if any).

"Euro Swingline Reference Bank Rate" means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Euro Swingline Agent at its request quoted by the Reference Banks to leading banks in the European interbank market as of 11.00 a.m. Brussels time on the Utilisation Date for that Euro Swingline Loan for the offering of deposits in euro for a period comparable to the Interest Period for the relevant Euro Swingline Loan and for settlement on that day.

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

"Existing 2001 Facility" means the US\$300,000,000 revolving credit facility made available to the Parent under an agreement dated 26 September 2001.

"Existing 2002 Facility" means the EUR350,000,000 revolving credit facility made available to the Company under an agreement dated 19 July 2002.

"Facility" means the Tranche A Revolving Facility, the Tranche B Revolving Facility, the Dollar Swingline Facility or the Euro Swingline Facility.

"Facility Office" means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (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.

"Federal Funds Rate" means, in relation to any day, the rate per annum equal to:

- (a) the weighted average of the rates on overnight Federal funds transactions with members of the US Federal Reserve System arranged by Federal funds brokers, as published for that day (or, if that day is not a New York Business Day, for the immediately preceding New York Business Day) by the Federal Reserve Bank of New York; or
- (b) if a rate is not so published for any day which is a New York Business Day, the average of the quotations for that day on such transactions received by the US Swingline Agent from three Federal funds brokers of recognised standing selected by the Agent.

"Fee Letter" means any letter or letters between certain of the Mandated Lead Arrangers, the Parent and the Company setting out any of the fees referred to in Clause 15 (Fees).

"Finance Document" means this Agreement, any Fee Letter and any other document designated as such by the Agent and the Borrower.

"Finance Party" means the Agent, the Mandated Lead Arrangers or a Lender.

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"Founder" means:

- (a) each person who is a beneficial owner (within the meaning of Rule 13d-3 of the United States Securities and Exchange Commission under the United States Securities Exchange Act of 1934) of 20% or more of the outstanding shares of Voting Stock of the Parent on the date hereof or any person that is or becomes a fiduciary of any person who is a beneficial owner of (or any person for whose account were held) outstanding shares of Voting Stock of the Parent on the date hereof (in any such case, an "Existing Shareholder"), including any group that is comprised solely of Existing Shareholders; and
- (b) any such Existing Shareholder or group comprised solely of Existing Shareholders who shall become the beneficial owner of 20% or more of the outstanding shares of Voting Stock of the Parent solely as a result of an acquisition by the Parent of shares of its Voting Stock,

in each case until such time as the persons or group described in paragraphs (a) and (b) above shall become the beneficial owner (other than by means of a stock dividend, stock split, gift or inheritance or receipt or exercise of, or accrual of any right to exercise, any stock options of shares of stock granted by the Parent) of any additional shares of Voting Stock of the Parent.

In addition, the Parent, any wholly-owned Subsidiary of the Parent and any employee stock ownership or other employee benefit plan of the Parent or a wholly-owned Subsidiary of the Parent shall be a "Founder".

"GAAP" means, in respect of the Parent, generally accepted accounting principles in the United States of America consistent with those applied in the preparation of the financial statements referred to in Clause 22.5 (Financial Statements).

"Group" means the Parent and its Subsidiaries for the time being.

"Hazardous Materials" means (a) petroleum and petroleum products, by-products or breakdown products, radioactive materials, asbestos-containing materials, polychlorinated biphenyls and radon gas and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any Environmental Law.

"Hedge Agreements" means interest rate swap, cap or collar agreements, interest rate future or option contracts, currency swap agreements, currency future or option contracts and other similar agreements.

"Information Memorandum" means the document concerning the Obligors and the Parent which, at the Parent's and the Company's request and on its behalf, is to be prepared in relation to this transaction, approved by the Parent and the Company and distributed by the Mandated Lead Arrangers in connection with syndication of the Facility.

"Interest Period" means, in relation to a Revolving Facility Loan, each period determined in accordance with Clause 13 (Interest Periods), in relation to a Swingline Loan, each period determined in accordance with Clause 8.4 (Interest Period) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 12.4 (Default interest).

"Legal Reservations" means:

- (a) the principle that equitable remedies may be granted or refused at the

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discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim; and
- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction.

"Lender" means:

- (a) any Original Lender;
- (b) where the context so requires, any Swingline Lender; and
- (c) any bank or financial institution which has become a Party in accordance with Clause 26 (Changes to the Lenders),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

"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 arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request quoted by the Reference Banks to leading banks in the London interbank market,

as of the Specified Time on the Quotation Day for the offering of deposits in the currency of that Loan and for a period comparable to the Interest Period for that Loan.

"Limitation Acts" means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

"Loan" means a Revolving Facility Loan, a Swingline Loan or the principal amount outstanding for the time being of that loan.

"LMA" means the Loan Market Association.

"Majority Lenders" means:

- (a) if there are no Loans then outstanding, a Lender or Lenders whose Commitments aggregate more than 66 2/3% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66 2/3% of the Total Commitments immediately prior to the reduction); or
- (b) at any other time, a Lender or Lenders whose participations in the Loans then outstanding aggregate more than 66 2/3% of all the Loans then outstanding.

provided that

for the purpose only of determining the composition of and voting rights in relation to the "Majority Lenders" the Total Commitments and the outstanding Loans of each Lender shall be calculated by the amount of the

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Total Tranche A Commitments or any Tranche A Loans being converted into euros at the Agent's Spot Rate of Exchange on the date which the Agent notifies the Lenders of any waiver, consent, approval, notice, direction or instruction to be given, amendment or appointment to be made or other decision to be taken.

"Mandatory Cost" means the percentage rate per annum calculated by the Agent in accordance with Schedule 4 (Mandatory Cost formulae).

"Material Adverse Change" means any material adverse change in the business, condition (financial or otherwise) or results of operations of the Parent and its Subsidiaries taken as a whole.

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

- (a) the business, condition (financial or otherwise) or results of operations of the Parent and its Subsidiaries taken as a whole;
- (b) the rights and remedies of the Agent or any Lender under the Finance Documents; or
- (c) the ability of any Obligor or the Parent to perform its payment obligations under the Finance Documents.

"Moody's" means Moody's Investor Services, Inc., or any successor by merger or change of name which is a nationally recognised rating agency in the United States of America.

"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.

"Multiemployer Plan" means a multiemployer plan, as defined in Section 4001(a)(3) of ERISA, to which the Parent or any ERISA Affiliate is making or accruing an obligation to make contributions, or has within any of the preceding five plan years made or accrued an obligation to make contributions.

"Multiple Employer Plan" means a single employer plan, as defined in Section 4001(a)(15) of ERISA, that:

- (a) is maintained for employees of the Parent or any ERISA Affiliate and at least one person other than the Parent and the ERISA Affiliates; or
- (b) was so maintained and in respect of which the Parent or any ERISA Affiliate could have liability under Section 4064 or 4069 of ERISA in

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the event such plan has been or were to be terminated.

"Net Debt" means Debt for Borrowed Money less Cash and Cash Equivalents.

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

"Obligors" means the Borrowers and the Guarantor.

"OECD Jurisdiction" means a member country of the Organisation for Economic Co-operation and Development.

"Optional Currency" means a currency (other than the Base Currency) which complies with the conditions set out in Clause 4.3 (Conditions relating to Optional Currencies) or, in relation to the Euro Swingline Facility, Clause 7.3 (Completion of a Utilisation Request for Swingline Loans).

"Original Obligors" means the Original Borrowers and the Guarantor.

"Overall Tranche A Commitment" of a Lender means:

- (a) its Tranche A Commitment; or
- (b) in the case of a Lender which does not have a Tranche A Commitment, the Tranche A Commitment of a Lender which is its Affiliate.

"Overall Tranche B Commitment" of a Lender means:

- (a) its Tranche B Commitment; or
- (b) in the case of a Lender which does not have a Tranche B Commitment, the Tranche B Commitment of a Lender which is its Affiliate.

"Participating Member State" means any member state of the European Communities that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Communities relating to Economic and Monetary Union.

"Party" means a party to this Agreement and includes its successors in title, permitted assigns and permitted transferees.

"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, as amended.

"PBGC" means the Pension Benefit Guaranty Corporation (or any successor).

"Permitted Security" means such of the following as to which no enforcement, collection, execution, levy or foreclosure proceeding shall have been commenced:

- (a) Security for Taxes, assessments and governmental charges or levies to the extent not required to be paid under Clause 23.3.1 (Payment of Taxes, Etc.);
- (b) Security imposed by law, such as materialmen's, mechanics', carriers', workmen's and repairmen's Security and other similar Security arising in the ordinary course of business securing obligations that are not overdue for a period of more than 30 days;
- (c) pledges or deposits to secure obligations under workers' compensation

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laws or similar legislation or to secure public or statutory obligations;

- (d) easements, rights of way and other encumbrances on title to real property that do not render title to the real property encumbered thereby unmarketable or materially adversely affect the use of such real property for its present purposes;
- (e) 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;
- (f) any Security arising solely by virtue of the maintenance of a bank account by any member of the Group in the ordinary course of business pursuant to the general terms and conditions of the bank with which such account is held; and
- (g) any lien arising by operation of law and in the ordinary course of trading.

"Plan" means a Single Employer Plan or a Multiple Employer Plan.

"Policy Guidelines" means the 2005 Dutch Central Bank's Policy Guidelines (issued in relation to the Dutch Exemption Regulation) dated 29 December 2004 (Beleidsregel 2005 kernbegrippen markttoetreding en handhaving Wtk 1992) as amended from time to time.

"Professional Market Party" means a professional market party (professionele marktpartij) under the Dutch Exemption Regulation.

"Public Debt Rating" means: (i) as of any date until and including the Corporate Bond Repayment Date, the rating that has been most recently announced by either S&P or Moody's or both as the case may be, for any class of non-credit enhanced long-term senior unsecured debt issued by the Parent; and (ii) as of any date following the Corporate Bond Repayment Date, the rating that has been most recently announced by either S&P or Moody's or both as the case may be with respect to the overall financial capacity (its creditworthiness) of the Parent to pay its financial obligations as they come due. For purposes of the foregoing:

- (a) if only one of S&P and Moody's shall have in effect a Public Debt Rating, the Applicable Margin shall be determined by reference to the available rating;
- (b) if neither S&P nor Moody's shall have in effect a Public Debt Rating, the Applicable Margin shall be set in accordance with Level 7 under the definition of "Applicable Margin", as the case may be;
- (c) if the ratings established by S&P and Moody's shall fall within different levels, the Applicable Margin shall be based upon the average of the Applicable Margins which applies to each rating; and
- (d) if S&P or Moody's shall change the basis on which ratings are established, each reference to the Public Debt Rating announced by S&P or Moody's, as the case may be, shall refer to the then equivalent rating by S&P or Moody's, as the case may be.

"Quotation Day" means, in relation to any period for which an interest rate is to be determined:

- (a) (if the currency is euro) two TARGET Days before the first day of that period; or

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(b) (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).

"Reference Banks" means, in relation to:

(a) LIBOR, the principal London offices of Citibank International PLC, Fortis Bank (Nederland) N.V. and Cooperatieve Centrale Raiffeisen-Boerenleenbank BA; and

(b) EURIBOR, the principal office in the European interbank market of Citibank International PLC, Fortis Bank (Nederland) N.V. and Cooperatieve Centrale Raiffeisen-Boerenleenbank BA,

or such other banks as may be appointed by the Agent or the Euro Swingline Agent (as appropriate) in consultation with the Parent.

"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 as listed in Part A of Schedule 1 (The Original Parties); and

(b) any jurisdiction where it conducts its business.

"Relevant Period" means each period of twelve months ending on the last day of the Parent's financial year and each period of twelve months ending on the last day of each of the first three quarters of the Parent's financial year.

"Resignation Letter" means a letter substantially in the form set out in Schedule 9 (Form of Resignation Letter).

"Revolving Facility" means the Tranche A Revolving Facility or the Tranche B Revolving Facility.

"Revolving Facility Loan" means a Tranche A Revolving Facility Loan or a Tranche B Revolving Facility Loan.

"Rollover Loan" means one or more Revolving Facility Loans:

(a) made or to be made on the same day that a maturing Revolving Facility Loan is due to be repaid;

(b) the aggregate amount of which is equal to or less than the maturing Revolving Facility Loan;

(c) in the same currency as the maturing Revolving Facility Loan (unless it arose as a result of the operation of Clause 6.2 (Unavailability of a currency)); and

(d) made or to be made for the purpose of refinancing a maturing Revolving

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Facility Loan.

"Reacquisition Sale and Leaseback Transaction" has the meaning given to it in Clause 23.9(e) (Merger).

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or any successor by merger or change of name which is a nationally recognized rating agency in the United States of America.

"Screen Rate" means:

- (a) in relation to LIBOR, the British Bankers' Association Interest Settlement Rate for the relevant currency and period; and
- (b) in relation to EURIBOR, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period,

displayed on the appropriate page of the Telerate screen (currently page 3750 in relation to LIBOR and page 248 in relation to EURIBOR). If the agreed page is replaced or service ceases to be available, the Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower and the Lenders.

"Security" means any lien, security interest or other charge or encumbrance of any kind, or any other type of preferential arrangement, including, without limitation, the lien or retained security title of a conditional vendor and any easement, right of way or other encumbrance on title to real property.

"Single Employer Plan" means a single employer plan, as defined in Section 4001(a)(15) of ERISA, that:

- (a) is maintained for employees of the Parent or any ERISA Affiliate and no person other than the Parent and the ERISA Affiliates; or
- (b) was so maintained and in respect of which the Parent or any ERISA Affiliate could have liability under Section 4069 of ERISA in the event such plan has been or were to be terminated.

"Specified Time" means a time determined in accordance with Schedule 6 (Timetables)

"Subsidiary" of any person means any corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of:

- (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency);
- (b) the interest in the capital or profits of such limited liability company, partnership or joint venture; or
- (c) the beneficial interest in such trust or estate

is at the time directly or indirectly owned or controlled by such person, by such person and one or more of its other Subsidiaries or by one or more of such person's other Subsidiaries.

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"Subsidiary Guarantee" has the meaning given to it in Clause 23.14 (Subsidiary Guarantors).

"Subsidiary Guarantor" has the meaning given to it in Clause 23.14 (Subsidiary Guarantors).

"Swingline Facility" means the Dollar Swingline Facility or the Euro Swingline Facility.

"Swingline Lender" means:

- (a) an Original Lender listed in Part BII of Schedule 1 (The Original Parties) as a Swingline Lender; and
- (b) any other person that becomes a Swingline Lender after the date of this Agreement in accordance with Clause 26 (Changes to Lenders)

which in each case has not ceased to be a Party as a Swingline Lender in accordance with the terms of this Agreement.

"Swingline Loan" means a Dollar Swingline Loan or a Euro Swingline Loan.

"TARGET" means Trans-European Automated Real-time Gross Settlement Express Transfer payment system.

"TARGET Day" means any day on which TARGET 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).

"Termination Date" means the date falling five years after the date of this Agreement, subject to the terms of Clause 11 (Extension of Facility).

"Total Commitments" means the Total Tranche A Commitments and the Total Tranche B Commitments.

"Total Dollar Swingline Commitments" means the aggregate of the Dollar Swingline Commitments, being US\$50,000,000 at the date of this Agreement.

"Total Euro Swingline Commitments" means the aggregate of the Euro Swingline Commitments, being EUR50,000,000 at the date of this Agreement;

"Total Tranche A Commitments" means the aggregate of the Tranche A Commitments, being US\$350,000,000 at the date of this Agreement.

"Total Tranche B Commitments" means the aggregate of the Tranche B Commitments, being EUR400,000,000 at the date of this Agreement.

"Tranche A Available Commitment" means a Lender's Tranche A Commitment minus:

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

other than that Lender's participation in any Tranche A Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date.

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"Tranche A Borrower" means the Parent or any Additional Borrower which becomes a party hereto as a Borrower under the Tranche A Facility.

"Tranche A Commitment" means:

- (a) in relation to an Original Lender, the amount in US dollars set opposite its name under the heading "Tranche A Commitment" in Schedule 1 (The Original Lenders) and the amount of any other Tranche A Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in US dollars of any Tranche A Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"Tranche A Loan" means a Tranche A Revolving Facility Loan or a Dollar Swingline Loan.

"Tranche A Revolving Facility" means the multicurrency revolving loan facility made available under this Agreement as described in Clause 2.1 (a) (i) (The Facility).

"Tranche A Revolving Facility Loan" means a loan made or to be made under the Tranche A Revolving Facility.

"Tranche B Available Commitment" means a Lender's Tranche B Commitment minus:

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

other than that Lender's participation in any Tranche B Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date.

"Tranche B Borrowers" means the Companies listed in Part A of Schedule 1 (The Original Parties) as Tranche B Borrowers and any Additional Borrower which becomes a party hereto as a Borrower under the Tranche B Facility.

"Tranche B Commitment" means:

- (a) in relation to an Original Lender, the amount in euro set opposite its name under the heading "Tranche B Commitment" in Schedule 1 (The Original Lenders) and the amount of any other Tranche B Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount in euro of any Tranche B Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

"Tranche B Loan" means a Tranche B Revolving Facility Loan or a Euro Swingline Loan.

"Tranche B Revolving Facility" means the multicurrency revolving loan facility made available under this Agreement as described in Clause 2.1

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(a) (ii) (The Facility).

"Tranche B Revolving Facility Loan" means a loan made or to be made under the Tranche B Revolving Facility.

"Transfer Certificate" means a certificate substantially in one of the forms set out in Schedule 5 (Form of Transfer Certificates) or any other form agreed between the Agent and the Parent.

"Transfer Date" means, in relation to a transfer, the later of:

- (a) the proposed Transfer Date specified in the Transfer Certificate; and
- (b) the date on which the Agent executes the Transfer Certificate.

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

"Utilisation" means a utilisation of a Facility.

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

"Utilisation Request" means a notice substantially in the form set out in Schedule 3 (Utilisation Request).

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

"Voting Stock" means capital stock issued by a corporation, or equivalent interests in any other person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such person, even if the right so to vote has been suspended by the happening of such a contingency.

1.2 Construction

- (a) Unless a contrary indication appears a reference in this Agreement to:
 - (i) "assets" includes present and future properties, revenues and rights of every description;
 - (ii) the "European interbank market" means the interbank market for euro operating in Participating Member States;
 - (iii) a "Finance Document" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended or novated;
 - (iv) a "financial year" in relation to any body corporate is a reference to the period in respect of which such body corporate produces its annual accounts and references to "financial half years" and "financial quarters" shall be construed accordingly;
 - (v) "indebtedness" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (vi) a "person" means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political

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subdivision or agency thereof;

(vii)a "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

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

(ix) a time of day is a reference to London time.

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

(c) In this Agreement, any reference to a "Clause" or "Schedule" is, unless the context otherwise requires, a reference to a Clause or Schedule hereof.

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

(e) A Default (other than an Event of Default) is "continuing" if it has not been remedied or waived and an Event of Default is "continuing" if it has not been remedied or waived.

1.3 Construction of 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);

(ii) dissolved (ontbonden);

(c) a moratorium includes surseance van betaling and granted a moratorium includes surseance verleend;

(d) a trustee in bankruptcy includes a curator;

(e) an administrator includes a bewindvoerder;

(f) a(n) (administrative) receiver does not include a curator or bewindvoerder; and

(g) an attachment includes a beslag.

1.4 Construction of Luxembourg Terms

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In this Agreement, where it relates to a Luxembourg entity, a reference to:

- (a) a winding-up, administration or dissolution includes a Luxembourg entity being declared in a situation of, without limitation, bankruptcy (faillite), insolvency, voluntary or judicial liquidation (liquidation volontaire or judiciaire), composition with creditors (concordat preventif de faillite), reprieve from payment (sursis de paiement), controlled management (gestion controlee), fraudulent conveyance, general settlement with creditors, reorganisation or similar laws affecting the rights of creditors generally; and
- (b) a trustee in bankruptcy, administrator, receiver, administrative receiver, compulsory manager or manager includes the nomination of any commissaire, juge-commissaire, curateur, liquidateur or similar officer in relation to a Luxembourg entity.

1.5 Currency Symbols and Definitions

"US\$" and "US dollars" denote lawful currency of the United States of America, "(pound)" and "sterling" denotes lawful currency of the United Kingdom, "Yen" denotes the lawful currency of Japan, "Swiss francs" denotes the lawful currency of Switzerland and "EUR" and "euro" means the single currency unit of the Participating Member States.

1.6 Third party rights

Unless expressly provided to the contrary in a Finance Document, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 (the "Third Parties Act") to enforce any term of this Agreement.

SECTION 2.

THE FACILITY

2. THE FACILITY

2.1 The Facility

- (a) Subject to the terms of this Agreement, the Lenders make available to the Borrowers:
 - (i) a multicurrency revolving loan facility made available to the Tranche A Borrower(s) in an aggregate amount equal to the Total Tranche A Commitments; and
 - (ii) a multicurrency revolving loan facility made available to the Tranche B Borrowers in an aggregate amount equal to the Total Tranche B Commitments.
- (b) Subject to the terms of this Agreement, the Swingline Lenders make available to the Borrowers:
 - (i) (as a sub-limit of the Tranche A Revolving Facility) a US dollar swingline loan facility made available to the Tranche A Borrower(s) in an aggregate amount equal to the Total Dollar Swingline Facility Commitments; and
 - (ii) (as a sub-limit of the Tranche B Revolving Facility) a euro swingline loan facility made available to the Tranche B Borrowers in an aggregate amount equal to the Total Euro Swingline Facility Commitments.

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Clauses 2.1 (a) and 2.1 (b) are subject to the restriction that at no time may the aggregate of the total amounts drawn under each Facility exceed the Total Tranche A Commitments or the Total Tranche B Commitments, as the case may be.

2.2 Lenders' rights and obligations

- (a) The obligations of each Lender under the Finance Documents are several. Failure by a Lender 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 Lender under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Lender from the Borrowers 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 Lenders' PMP representations

- (a) Each Original Lender explicitly declares and represents that it is a Professional Market Party and that it is aware that:
 - (i) it therefore does not benefit from the (creditor) protection under the Dutch Banking Act; and
 - (ii) each Borrower incorporated in the Netherlands has relied upon this representation.
- (b) This declaration and representation is made by each Original Lender on the date of this Agreement and on the date a New Lender becomes a Lender, it is required such New Lender is a Professional Market Party, each New Lender shall make the representation set out in paragraph 4 of the Transfer Certificate.

3. PURPOSE

3.1 Purpose

- (a) Each Tranche A Borrower shall apply all amounts borrowed by it under the Tranche A Revolving Facility for general corporate purposes, including the refinancing of the Existing 2001 Facility and for commercial paper backstop purposes.
- (b) Each Tranche B Borrower shall apply all amounts borrowed by it under the Tranche B Revolving Facility for general corporate purposes, including the refinancing of the Existing 2002 Facility.
- (c) Each Tranche A Borrower shall apply all amounts borrowed by it under the Dollar Swingline Facility towards (i) refinancing any note or other instrument maturing under any dollar commercial paper programme of such Tranche A Borrower and (ii) general corporate purposes.

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- (d) Each Tranche B Borrower shall apply all amounts borrowed by it under the Euro Swingline Facility towards the general corporate purposes of such Tranche B Borrower.

A Swingline Loan may not be applied in repayment or prepayment of another Swingline Loan.

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 Initial conditions precedent

No Borrower may deliver a Utilisation Request unless the Agent has received all of the documents and other evidence listed in Schedule 2

(Conditions precedent) in form and substance satisfactory to the Agent. The Agent shall notify the relevant Borrower and the Lenders promptly upon being so satisfied.

4.2 Further conditions precedent

The Lenders will only be obliged to comply with Clause 5.4 (Lenders' participation) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) in the case of a Rollover Loan, no Event of Default is continuing or would result from the proposed Loan and, in the case of any other Loan, no Default is continuing or would result from the proposed Loan; and
- (b) the representations and warranties contained in Clause 22 (Representations and Warranties), other than those set out in the last sentence of Clause 22.5 (Financial Statements), paragraph (a) of Clause 22.6 (No proceedings pending or threatened) and paragraphs (a), (b) and (c) of Clause 22.10 (No misleading information), are correct on and as of the Utilisation Date.

4.3 Conditions relating to Optional Currencies

- (a) A currency will constitute an Optional Currency in relation to a Revolving Facility Loan if:
 - (i) it is readily available in the amount required and freely convertible into the Base Currency in the Relevant Interbank Market on the Quotation Day and the Utilisation Date for that Loan; and
 - (ii) it is US dollars (in the case of the Tranche A Facility), euro (in the case of the Tranche B Facility), sterling, Swiss francs or Yen or has been approved by the Agent (acting on the instructions of all the Lenders) on or prior to receipt by the Agent of the Utilisation Request for that Loan.
- (b) If the Agent has received a written request from a Borrower for a currency to be approved under paragraph (a)(ii) above, the Agent will confirm to that Borrower by the Specified Time:
 - (i) whether or not the Lenders have granted their approval; and

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- (ii) if approval has been granted, the minimum amount (and, if required, integral multiples) for any subsequent Utilisation in that currency.

4.4 Maximum number of Loans

- (a) No Borrower may deliver a Utilisation Request in respect of a Revolving Facility Loan if as a result of the proposed Utilisation more than 25 Revolving Facility Loans would be outstanding.
- (b) No Borrower may deliver a Utilisation Request in respect of a Swingline Facility Loan if as a result of the proposed Utilisation more than 5 Swingline Facility Loans would be outstanding.
- (c) Any Loan made by a single Lender under Clause 6.2 (Unavailability of a currency) shall not be taken into account in this Clause 4.4.

SECTION 3.

UTILISATION

5. UTILISATION - REVOLVING FACILITIES

5.1 Delivery of a Utilisation Request

A Borrower 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

- (a) Each Utilisation Request in respect of a Revolving Facility is irrevocable and will not be regarded as having been duly completed unless:
 - (i) it identifies the Facility to be Utilised;
 - (ii) the proposed Utilisation Date is a Business Day within the Availability Period;
 - (iii) the currency and amount of the Utilisation comply with Clause 5.3 (Currency and amount); and
 - (iv) the proposed Interest Period complies with Clause 13 (Interest Periods).
- (b) Only one Revolving Facility Loan may be requested in each Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be the relevant Base Currency or an Optional Currency.
- (b) The amount of the proposed Loan must be an amount whose Base Currency Amount is not more than the relevant Available Facility and which is:
 - (i) (in the case of a Tranche A Loan) if the currency selected is the relevant Base Currency, a minimum of US\$5,000,000 (and an integral multiple of US\$5,000,000) or an amount equal to the relevant Available Facility;

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(ii) (in the case of a Tranche B Loan) if the currency selected is the relevant Base Currency, a minimum of EUR5,000,000 (and an integral multiple of EUR5,000,000) or an amount equal to the relevant Available Facility; or

(iii) if the currency selected is an Optional Currency, the minimum amount (or an integral multiple, if required) specified by the Agent pursuant to paragraph (b) (ii) of Clause 4.3 (Conditions relating to Optional Currencies) or the equivalent in such Optional Currency of the Base Currency Amount of the relevant Available Facility.

5.4 Lenders' participation

(a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Revolving Facility Loan available through its Facility Office.

(b) The amount of each Lender's participation in each Revolving Facility Loan will be equal to the proportion borne by its applicable Available Commitment to the applicable Available Facility immediately prior to making the Loan.

(c) The Agent shall notify each Lender of the amount, currency and the Base Currency Amount of each Revolving Facility Loan at the Specified Time.

6. OPTIONAL CURRENCIES

6.1 Selection of currency

A Borrower shall select the currency of a Revolving Facility Loan in a Utilisation Request.

6.2 Unavailability of a currency

If before the Specified Time on any Quotation Day:

(a) the Agent has received notice from a Lender 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 Revolving Facility Loan in the proposed Optional Currency would contravene a law or regulation applicable to it,

the Agent will give notice to the relevant Borrower to that effect by the Specified Time on that day. In this event, any Lender that gives notice pursuant to this Clause 6.2 will be required to participate in the Revolving Facility Loan in the relevant 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 maturing Loan that is due to be repaid) and its participation will be treated as a separate Revolving Facility Loan denominated in the relevant Base Currency during that Interest Period.

6.3 Participation in a Loan

Each Lender's participation in a Revolving Facility Loan will be determined in accordance with paragraph (b) of Clause 5.4 (Lenders' participation).

7. UTILISATION - SWINGLINE LOANS

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7.1 General

7.1.1 The following Clauses do not apply to a Swingline Facility Loan:

- (a) Clause 4.2 (Further conditions precedent) and 4.3 (Conditions relating to optional currencies);
- (b) Clause 5 (Utilisation - Revolving Facilities);
- (c) Clause 6 (Optional currencies);
- (d) Clause 12 (Interest) as it applies to the calculation of interest on a Loan but not default interest on an overdue amount;
- (e) Clause 13.1 (Selection of Interest Periods); and
- (f) (in relation to a Dollar Swingline Loan) Clause 14 (Changes to the calculation of interest),

7.2 Delivery of a Utilisation Request for Swingline Loans

- (a) A Borrower may utilise a Swingline Facility by delivery to the US Swingline Agent or the Euro Swingline Agent, as appropriate, of a duly completed Utilisation Request in the form of Part B of Schedule 3 (Utilisation Request) not later than the Specified Time.
- (b) Each Utilisation Request for a Swingline Facility Loan must be sent to the US Swingline Agent or the Euro Swingline Agent, as appropriate, to the address (i) in respect of a Dollar Swingline Loan, in New York City or (ii) in respect of a Euro Swingline Loan, in London notified by the US Swingline Agent or the Euro Swingline Agent (as the case may be) for this purpose with a copy to its address referred to in Clause 33 (Notices).

7.3 Completion of a Utilisation Request for Swingline Loans

- (a) Each Utilisation Request for a Swingline Loan is irrevocable and will not be regarded as having been duly completed unless:
 - (i) it identifies the Borrower;
 - (ii) it specifies that it is for a Dollar Swingline Loan or a Euro Swingline Loan;
 - (iii) in respect of a Dollar Swingline Loan, the proposed Utilisation Date is a New York Business Day, and in respect of a Euro Swingline Loan, a Business Day in either case within the Availability Period;
 - (iv) in the case of a Dollar Swingline Loan, it is denominated in US dollars and in the case of a Euro Swingline Loan, it is denominated in euro, sterling or US dollars;
 - (v) the amount of the proposed Swingline Loan is an amount which is not more than the Available Dollar Swingline Facility or the Available Euro Swingline Facility, as appropriate, and is a minimum of US\$5,000,000 for a Dollar Swingline Loan or EUR5,000,000 (or equivalent in another currency) for a Euro Swingline Loan or, if less, the Available Dollar Swingline Facility or the Available Euro Swingline Facility, as appropriate; and

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(vi) the proposed Interest Period:

- (1) does not overrun the relevant Availability Period;
- (2) in the case of a Dollar Swingline Loan is a period of not more than five New York Business Days; and
- (3) in the case of a Euro Swingline Loan is a period of not more than five Business Days.

(b) Only one Swingline Loan may be requested in each Utilisation Request.

(c) A currency will constitute an Optional Currency in relation to the Euro Swingline Facility if it is US dollars or sterling.

7.4 Swingline Lenders' participation

(a) If the conditions set out in this Agreement have been met, each Swingline Lender shall make its participation in each Dollar Swingline Loan available through its Facility Office in New York City or such other place as is in the same time zone as New York City and shall make its participation in each Euro Swingline Loan available through its Facility Office in the relevant interbank market.

(b) The Swingline Lenders will only be obliged to comply with paragraph (a) above if on the date of the Utilisation Request and on the proposed Utilisation Date:

(i) no Default is continuing or would result from the proposed Utilisation; and

(ii) the representations and warranties contained in Clause 22 (Representations and Warranties), other than those set out in the last sentence of Clause 22.5 (Financial Statements), paragraph (a) of Clause 22.6 (No proceedings pending or threatened) and paragraphs (a), (b) and (c) of Clause 22.10 (No misleading information), are true and correct.

(c) The amount of each Swingline Lender's participation in each Dollar Swingline Loan will be equal to the proportion borne by its Available Dollar Swingline Commitment to the Available Dollar Swingline Facility immediately prior to making a Dollar Swingline Loan, adjusted to take account of any limit applying under Clause 7.5 (Relationship with the Revolving Facility).

(d) The amount of each Swingline Lender's participation in each Euro Swingline Loan will be equal to the proportion borne by its Available Euro Swingline Commitment to the Available Euro Swingline Facility immediately prior to making a Euro Swingline Loan, adjusted to take account of any limit applying under Clause 7.5 (Relationship with the Revolving Facility).

(e) The US Swingline Agent shall notify each Swingline Lender of the amount of each Dollar Swingline Loan and the Euro Swingline Agent shall notify each Swingline Lender of the amount of each Euro Swingline Loan and its participation in that Swingline Loan by the Specified Time.

7.5 Relationship with the Revolving Facility

(a) This Clause 7.5 applies when a Swingline Loan is outstanding or is to be borrowed.

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- (b) The Tranche A Revolving Facility may be used by way of Dollar Swingline Loans. The Dollar Swingline Facility is not independent of the Tranche A Revolving Facility.
- (c) The Tranche B Revolving Facility may be used by way of Euro Swingline Loans. The Euro Swingline Facility is not independent of the Tranche B Revolving Facility.
- (d) Notwithstanding any other term of this Agreement a Lender is only obliged to participate in:
 - (i) a Tranche A Loan or a Dollar Swingline Loan to the extent that it would not result in its participation and that of a Lender which is its Affiliate in the Tranche A Loans exceeding its Overall Tranche A Commitment; and
 - (ii) a Tranche B Loan or a Euro Swingline Loan to the extent that it would not result in its participation and that of a Lender which is its Affiliate in the Tranche B Loans exceeding its Overall Tranche B Commitment.
- (e) Where, but for the operation of paragraph (d) above, the relevant Base Currency Amount of a Lender's participation and that of a Lender which is its Affiliate in the Loans would have exceeded its Overall Tranche A Commitment or Overall Tranche B Commitment, the excess will be apportioned among the other Lenders participating in the relevant Loan pro rata according to their relevant Tranche A Commitments or Tranche B Commitments. This calculation will be applied as often as necessary until the Loan is apportioned among the relevant Lenders in a manner consistent with paragraph (d) above.

8. SWINGLINE LOANS

8.1 Repayment

- (a) Each Borrower that has drawn a Swingline Loan shall repay that Swingline Loan on the last day of its Interest Period.
- (b) If a Swingline Loan is not repaid in full on its due date, the Agent shall (if requested to do so in writing by any affected Lender) set a date (the "Loss Sharing Date") on which payments shall be made between the Lenders to re-distribute the unpaid amount between them. The Agent shall give at least 3 Business Days notice to each affected Lender of the Loss Sharing Date and notify it of the amounts to be paid or received by it.
- (c) On the Loss Sharing Date each Lender must pay to the Agent its Proportion of the Unpaid Amount minus its (or its Affiliate's) Unpaid Swingline Participation (if any). If this produces a negative figure for a Lender no amount need be paid by that Lender.
- (d) For the purposes of this Clause 8.1 (Repayment):

"Proportion" of a Lender means

- (i) in respect of an Unpaid Amount under a Dollar Swingline Loan the proportion borne by:
 - (A) its Tranche A Commitment (or, if the Total Tranche A Commitments are then zero, its Tranche A Commitment immediately prior to their reduction to zero) minus the

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amount of its participation (or that of a Lender which is its Affiliate) in any outstanding Tranche A Loans when converted into the relevant Base Currency at the Agent's Spot Rate of Exchange (but ignoring its (or its Affiliate's) participation in the unpaid Dollar Swingline Loan): to

(B) the Total Tranche A Commitments (or, if the Total Tranche A Commitments are then zero, the Total Tranche A Commitments immediately prior to their reduction to zero) minus any outstanding Tranche A Loans (but ignoring the unpaid Dollar Swingline Loan); and

(ii) in respect of an Unpaid Amount under a Euro Swingline Loan the proportion borne by:

(A) its Tranche B Commitment (or, if the Total Tranche B Commitments are then zero, its Tranche B Commitment immediately prior to their reduction to zero) minus the amount of its participation in any outstanding Tranche B Loans when converted into the relevant Base Currency at the Agent's Spot Rate of Exchange (but ignoring its participation in the unpaid Euro Swingline Loan): to

(B) the Total Tranche B Commitments (or, if the Total Tranche B Commitments are then zero, the Total Tranche B Commitments immediately prior to their reduction to zero) minus any outstanding Tranche B Loans (but ignoring the unpaid Euro Swingline Loan).

"Unpaid Amount" means, in relation to a Swingline Loan, any principal not repaid and/or any interest accrued but unpaid on that Swingline Loan calculated from the Utilisation Date to the Loss Sharing Date.

"Unpaid Swingline Participation" of a Lender means that part of the Unpaid Amount (if any) owed to that Lender (or its Affiliate) (before any re-distribution under this Clause 8.1 (Repayment)).

"Shortfall" of a Swingline Lender is an amount equal to its Unpaid Swingline Participation minus its (or its Affiliate's) Proportion of the Unpaid Amount.

(e) Out of the funds received by the Agent pursuant to sub-clause (c) the Agent shall pay to each Swingline Lender an amount equal to the Shortfall (if any) of that Swingline Lender.

(f) If the amount actually received by the Agent from the Lenders is insufficient to pay the full amount of the Shortfall of all Swingline Lenders then the amount actually received will be distributed amongst the Swingline Lenders pro rata to the Shortfall of each Swingline Lender.

(g)

(i) On a payment under this Clause 8.1 (Repayment), the paying Lender will be subrogated to the rights of the Swingline Lenders which have shared in the payment received.

(ii) If and to the extent a paying Lender is not able to rely on its rights under sub-paragraph (i) above, the relevant Borrower shall be liable to the paying Lender for a debt equal to the amount the paying Lender has paid under this Clause 8.1 (Repayment).

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(iii) Any payment under this Clause 8.1 (Repayment) does not reduce the obligations in aggregate of any Obligor.

8.2 Voluntary Prepayment of Swingline Loans

- (a) The Borrower to which a Swingline Loan has been made may prepay at any time the whole of that Swingline Loan.
- (b) Unless a contrary indication appears in this Agreement, any part of the Swingline Facility which is prepaid may be reborrowed in accordance with the terms of this Agreement.

8.3 Interest

- (a) The rate of interest on each Dollar Swingline Loan for any day during its Interest Period is the higher of:
 - (i) the prime commercial lending rate in US dollars announced by the US Swingline Agent at the Specified Time and in force on that day; and
 - (ii) 0.50 per cent. per annum over the rate per annum determined by the US Swingline Agent to be the Federal Funds Rate (as published by the Federal Reserve Bank of New York) for that day.
- (b) The rate of interest on each Euro Swingline Loan for any day during its Interest Period is the Euro Swingline Rate.
- (c) The Agent shall promptly notify the Swingline Lenders and the relevant Borrower of the determination of the rate of interest under paragraph (a) or (b) above.
- (d) Each Borrower shall pay accrued interest on each Swingline Loan made to it on the last day of its Interest Period.

8.4 Interest Period

- (a) Each Swingline Loan has one Interest Period only.
- (b) The Interest Period for a Swingline Loan must be selected in the relevant Utilisation Request.

8.5 Swingline Agents

- (a) The Euro Swingline Agent and the Dollar Swingline Agent may each perform their duties in respect of the Euro Swingline Facility and the Dollar Swingline Facility, respectively, through an Affiliate acting as their agent.
- (b) Notwithstanding any other term of this Agreement and without limiting the liability of any Obligor under the Finance Documents:
 - (i) each Swingline Lender shall (in proportion to its share of the Total Dollar Swingline Commitments or, if the Total Dollar Swingline Commitments are then zero, to its share of the Total Dollar Swingline Commitments immediately prior to their reduction to zero) pay to or indemnify the US Swingline Agent, within three New York Business Days of demand, for or against any cost, loss or liability incurred by the US Swingline Agent (other than by reason of the US Swingline Agent's gross negligence or wilful misconduct) in acting as US Swingline Agent for the Dollar Swingline Facility under the Finance Documents (unless the US

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Swingline Agent has been reimbursed by an Obligor pursuant to a Finance Document); and

- (ii) each Swingline Lender shall (in proportion to its share of the Total Euro Swingline Commitments or, if the Total Euro Swingline Commitments are then zero, to its share of the Total Euro Swingline Commitments immediately prior to their reduction to zero) pay to or indemnify the Euro Swingline Agent, within three Business Days of demand, for or against any cost, loss or liability incurred by the Euro Swingline Agent (other than by reason of the Euro Swingline Agent's gross negligence or wilful misconduct) in acting as Euro Swingline Agent for the Euro Swingline Facility under the Finance Documents (unless the Euro Swingline Agent has been reimbursed by an Obligor pursuant to a Finance Document).

8.6 Conditions of assignment or transfer

Notwithstanding any other term of this Agreement, each Swingline Lender shall ensure that at all times its Overall Tranche A Commitment is not less than its Dollar Swingline Commitment (or if it does not have a Dollar Swingline Commitment, the Dollar Swingline Commitment of a Lender which is its Affiliate) and its Overall Tranche B Commitment is not less than its Euro Swingline Commitment (or if it does not have a Euro Swingline Commitment, the Euro Swingline Commitment of a Lender which is its Affiliate).

SECTION 4.

REPAYMENT, PREPAYMENT AND CANCELLATION

9. REPAYMENT

9.1 Repayment of Loans

Each Borrower which has drawn a Loan shall repay that Loan on the last day of its Interest Period.

10. PREPAYMENT AND CANCELLATION

10.1 Illegality

If, at any time, it is or will become unlawful in any jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund its participation in any Loan:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Company, the Commitment of that Lender will be immediately cancelled; and
- (c) each Borrower shall repay that Lender's participation in the Loans made to that Borrower on the last day of the Interest Period for each Loan occurring after the Agent has notified the Company or, if earlier, the date specified by the Lender in the notice delivered to the Agent.

10.2 Change of Control

- (a) Subject to paragraph (b) below, upon the occurrence of a Change of Control and at the request of the Majority Lenders, the Facilities

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will be cancelled and all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents, shall become immediately due and payable.

- (b) For the purposes of paragraph (a), above, a Change of Control shall be deemed not to have occurred for the purposes of this Agreement if paragraph (a) or (b) in the definition of "Change of Control" applies and the person or persons referred to in such paragraph has or have a Public Debt Rating with a stable outlook which is equal to or better than that of the Parent immediately before what would, but for this paragraph (b), have been a Change of Control.

For the purposes of this Clause 10.2 (Change of Control):

"Change of Control" means:

- (a) any person or two or more persons acting in concert (other than any Founder) acquiring beneficial ownership (within the meaning of Rule 13d-3 of the United States Securities and Exchange Commission under the United States Securities Exchange Act of 1934), directly or indirectly, of Voting Stock of the Parent (or other securities convertible into such Voting Stock) representing 20% or more of the combined voting power of all Voting Stock of the Parent; or
- (b) any person or two or more persons acting in concert (other than any Founder) acquiring by contract or otherwise, or entering into a contract or arrangement that, upon consummation, will result in its or their acquisition of the power to exercise, directly or indirectly, a controlling influence over the management or policies of the Parent.

10.3 Acquisition for Merger

- (a) Subject to paragraph (b) below, upon the acquisition by an Obligor of a person which is not an Obligor, where such acquisition is made in contemplation of a merger between such Obligor and such other person whether or not the surviving entity is such Obligor, and at the request of the Majority Lenders, the Facilities will be cancelled and all outstanding Loans, together with accrued interest, and all other amounts accrued under the Finance Documents, shall become immediately due and payable.
- (b) Paragraph (a) above shall only apply if, as a direct result of such acquisition, the Public Debt Rating of the Parent quoted by Moody's or S&P (including any change in terms of its outlook) is worse than its Public Debt Rating immediately prior to such acquisition.

10.4 Voluntary cancellation

- (a) The Company may, if it gives the Agent not less than 5 Business Days' prior notice, cancel the whole or any part (being a minimum amount of US\$10,000,000 and an integral multiple of US\$5,000,000 (or their equivalent in another currency or currencies)) of the Tranche A Available Facility.
- (b) The Company may, if it gives the Agent not less than 5 Business Days' prior notice, cancel the whole or any part (being a minimum amount of EUR10,000,000 and an integral multiple of EUR5,000,000 (or their equivalent in another currency or currencies)) of the Tranche B Available Facility.
- (c) Any cancellation under this Clause 10.4 shall reduce the Commitments

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of the Lenders rateably under the Facility.

10.5 Voluntary Prepayment

- (a) A Borrower may, if it gives the Agent not less than 5 Business Days' prior notice, prepay the whole or any part of a Tranche A Loan (but if in part, being an amount that reduces the Base Currency Amount of the Loan by a minimum amount of US\$10,000,000 and an integral multiple of US\$5,000,000 (or their equivalent in another currency or currencies)).
- (b) A Borrower may, if it gives the Agent not less than 5 Business Days' prior notice, prepay the whole or any part of a Tranche B Loan (but if in part, being an amount that reduces the Base Currency Amount of the Loan by a minimum amount of EUR10,000,000 and an integral multiple of EUR5,000,000 (or their equivalent in another currency or currencies)).

10.6 Right of repayment and cancellation in relation to a single Lender

- (a) If:
 - (i) any sum payable to any Lender by an Obligor is required to be increased under paragraph (c) of Clause 16.2 (Tax gross-up); or
 - (ii) any Lender claims indemnification from an Obligor under Clause 16.3 (Tax indemnity) or Clause 17.1 (Increased costs),the Company may, whilst the circumstance giving rise to the requirement or indemnification continues, give the Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in the Loans.
- (b) On receipt of a notice referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Company has given notice under paragraph (a) above (or, if earlier, the date specified by the Company in that notice), each Borrower to which a Loan is outstanding shall repay that Lender's participation in that Loan together with all reasonable costs, fees and expenses owing to such Lender in accordance with the terms of this Agreement.

10.7 Restrictions

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 10 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) Unless a contrary indication appears in this Agreement, any part of the Facility which is prepaid may be reborrowed in accordance with the terms of this Agreement.
- (d) No Borrower shall repay or prepay all or any part of the Loans or cancel all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.

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- (e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- (f) If the Agent receives a notice under this Clause 10 it shall promptly forward a copy of that notice to either the Company or the affected Lender, as appropriate.

11. EXTENSION OF FACILITY

11.1 First Extension Request

The Company shall be entitled to request an extension of the Termination Date (the "Original Termination Date"), for an additional period of 365 days (the day to which the Facility is first so extended being referred to in this Clause 11 as the "First Extended Termination Date"), by giving notice to the Agent (the "First Extension Request") not more than 60 nor less than 45 days before the first anniversary of the date hereof (the "First Anniversary Date").

11.2 Second Extension Request

The Company shall be entitled to submit a further request for an extension of the Facility, either:

- (a) if one or more Lenders have agreed to an extension of the Original Termination Date pursuant to a First Extension Request, for an additional period of 365 days; or
- (b) if no Lenders have agreed to an extension of the Original Termination Date at the end of First Anniversary Date or if the Company has not requested an extension of the Original Termination Date at the end of the First Anniversary Date, for an additional period of 730 days,

by giving notice to the Agent (the "Second Extension Request" and together with a First Extension Request, an "Extension Request") not more than 60 nor less than 45 days before the second anniversary of the date hereof (the "Second Anniversary Date").

11.3 Notification of Extension Request

The Agent shall forward a copy of any Extension Request to the Lenders as soon as practicable after receipt of it.

11.4 Lenders' Response to Extension Request

If a Lender, in its individual and sole discretion, agrees to an extension requested by the Company, it shall give notice to the Agent (a "Notice of Extension") no later than 20 days prior to the First Anniversary Date or the Second Anniversary Date, as the case may be. If a Lender does not give such Notice of Extension by such date, then that Lender shall be deemed to have refused that extension provided that a Lender may agree to a Second Extension Request notwithstanding that it shall have refused a First Extension Request (in which case it shall be deemed to have agreed to such First Extension Request).

11.5 Extension Date

If:

11.5.1 one or more Lenders agree to a First Extension Request, the Original Termination Date shall be extended for such Lenders to the day which is 365 days from (and including) the Original Termination Date;

11.5.2 one or more Lenders have agreed to a First Extension Request and one or more Lenders agree to a Second Extension Request, the First Extended Termination Date shall be extended for such Lenders to the day which is 365 days from (and including) the First Extended Termination Date; and

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11.5.3 no Lenders agreed to an extension of the Original Termination Date at the end of First Anniversary Date and one or more Lenders agree to a Second Extension Request, the Original Termination Date shall be extended for such Lenders to the day which is 730 days from (and including) the Original Termination Date.

11.6 Cancellation and Repayment

On the Original Termination Date and on the First Extended Termination Date the Commitments and the share of any outstanding Loans of the Lenders which have not agreed to the extension on such date shall be reduced to zero and all amounts owing to them will be repaid at the relevant Termination Date (and those Lenders shall cease from that date to be Lenders under this Agreement) and the amount of the Facility shall be reduced accordingly.

11.7 Lender's Discretion

Nothing shall oblige a Lender to agree to an Extension Request.

11.8 Notification of Extension

The Agent shall promptly inform the Company and the Lenders of any extension of the Original Termination Date or the First Extended Termination Date.

SECTION 5.

COSTS OF UTILISATION

12. INTEREST

12.1 Calculation of interest

The rate of interest on each Revolving Facility Loan from day to day during each Interest Period relating thereto is the percentage rate per annum which is the aggregate of:

- (a) the Applicable Margin at such time;
- (b) LIBOR or, in relation to any Revolving Facility Loan in euro, EURIBOR; and
- (c) Mandatory Cost, if any.

12.2 Notification of change in Public Debt Rating

The Parent shall, promptly upon any public announcement of a change in any Public Debt Rating being made, notify the Agent of such change.

12.3 Payment of interest

On the last day of each Interest Period the Borrower to which a Loan has been made shall pay accrued interest on that Loan to which that Interest Period relates (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).

12.4 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 one per cent. higher than the rate which would have been payable if the overdue amount had, during the period

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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 12.4 shall be immediately payable by the Obligor on demand by the Agent.

- (b) 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.

12.5 Notification of rates of interest

The Agent shall promptly notify the Lenders and the relevant Borrower (and the Company) of the determination of a rate of interest under this Agreement.

13. INTEREST PERIODS

13.1 Selection of Interest Periods

- (a) A Borrower may select an Interest Period for a Loan in the Utilisation Request for that Loan.
- (b) Subject to this Clause 13, the Borrower may select an Interest Period of one, two, three or six Months or any other period agreed between the relevant Borrower and the Agent (acting on the instructions of all the Lenders).
- (c) An Interest Period for a Loan shall not extend beyond the Termination Date.
- (d) Each Interest Period for a Loan shall start on the Utilisation Date.
- (e) A Loan has one Interest Period only.

13.2 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).

14. CHANGES TO THE CALCULATION OF INTEREST

14.1 Absence of quotations

Subject to Clause 14.2 (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 12:00 noon on the Quotation Day, the applicable LIBOR or EURIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

14.2 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 Applicable Margin;

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- (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; and
- (iii) the Mandatory Cost, if any, applicable to that Lender's participation in the Loan.

(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 on the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35 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.

14.3 Alternative basis of interest or funding

- (a) If a Market Disruption Event occurs and the Agent or the Company so requires, the Agent and the Company shall enter into negotiations (for a period of not more than thirty 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 the Company, be binding on all Parties.

14.4 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.

15. FEES

15.1 Commitment fee

- (a) The Parent (in its capacity as a Tranche A Borrower) and the Company (in its capacity as a Tranche B Borrower) shall pay to the Agent (for the account of each Lender) a fee in the Base Currency computed at a percentage rate per annum equal to thirty per cent of the Applicable Margin applicable at the relevant time on that Lender's Available Commitment under the Tranche A Revolving Facility and the Tranche B Revolving Facility for the Availability Period.
- (b) The accrued commitment fee is payable on the last day of each successive period of three Months which ends during the Availability

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Period, on the Termination Date and on any cancelled amount of the relevant Lender's Commitment at the time the cancellation is effective.

15.2 Arrangement fee

The Parent or the Company shall pay to the Mandated Lead Arrangers an arrangement fee in the amount and at the times agreed in a Fee Letter.

15.3 Agency fee

The Parent or the Company shall pay to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

15.4 Utilisation fee

- (a) The Parent (in its capacity as a Tranche A Borrower) or the Company (in its capacity as a Tranche B Borrower) shall pay to the Agent (for the account of each Lender) for each date on which the aggregate of:
 - (a) the Base Currency Amounts of all Tranche B Loans at such time; and
 - (b) the Euro Amounts of all Tranche A Loans at such time exceeds 50% of the aggregate of: (i) the Total Tranche B Commitments; and (ii) the Euro Amount of the Total Tranche A Commitments on that date a fee on the aggregate amount by which the outstanding Loans on that date exceed 50% of the Total Commitments on that date at a rate per annum equal to 0.025%, payable on the last day of each successive period of three Months which ends during the Availability Period and on the Termination Date (each of such dates being a "Payment Date").
- (b) For the purposes of paragraph (a) above, the Euro Amount of a Tranche A Loan or the Total Tranche A Commitments means the amount of such Tranche A Loan or Tot