

**DATED 2023**

**AQUILA MIDCO 1 LIMITED**

**INSTRUMENT  
CONSTITUTING £[•]  
12 PER CENT.  
UNSECURED REDEEMABLE  
LOAN NOTES 2031  
AND PAYMENT IN KIND NOTES**

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THIS INSTRUMENT is dated

2023

**AND IS ENTERED INTO BY:**

**AQUILA MIDCO 1 LIMITED**, a company incorporated in England and Wales with registered number 05717230 and whose registered office is at 47 Queen Anne Street, Marylebone, London, W1G 9JG (the "**Company**").

**WHEREAS:**

The Company has by resolution of its Directors passed on or around the date of this Instrument resolved to create: (i) up to a maximum nominal amount of £[●] 12 per cent. unsecured redeemable loan notes 2031, to be constituted in the manner set out in this Instrument; and (ii) an unlimited amount of 12 per cent. unsecured redeemable payment in kind notes 2031, in each case to be constituted in the manner set out in this Instrument. The Company intends that the payment in kind notes may be issued from time to time as funding bonds (within the meaning of section 939 of the Income Tax Act 2007 and section 413 of the Corporation Tax Act 2009) to satisfy any liability to pay interest on the loan notes.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1** Save as otherwise provided in this Instrument, the following words and phrases have the following meanings throughout this Instrument:

**Act** means the Companies Act 2006.

**Articles** means the articles of association of the Parent (as amended or replaced from time to time).

**Assets Sale** means a sale by the Parent or any other member of the Group of all or substantially all of the Group's business, assets and undertaking to a single buyer or to one or more buyers as part of a single transaction or a series of connected transactions (other than as part of a Reorganisation).

**Auditors** means the auditors of the Company for the time being and from time to time.

**Business Day** means any day, other than a Saturday or Sunday or English public or bank holiday.

**Conditions** means the conditions set out in Schedule 1 as from time to time amended in accordance with clause 14 and Condition 5 of Schedule 1 and "**Condition**" shall be construed accordingly.

**Debtor's Obligations** has the meaning given to it in clause 15.1.

**Directors** means the board of directors of the Company from time to time.

**Event of Default** means any of those events specified in clause 10.2.

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**Exit** means a Sale, Assets Sale, Listing or Winding-Up.

**Facility Agreement** means the facility agreement dated 21 July 2023 between, among others, Aquila Bidco Limited, Aquila Midco 2 Limited, GLAS Trust Corporation Limited, Global Loan Agency Services Limited and the financial institutions listed in the schedule thereto.

**Final Repayment Date** means [●] [●] 2031, or such later date as may be agreed by Noteholder Resolution from time to time.

**Financing Documents** means the Facility Agreement together with the associated security documents and ancillary documents referred to therein, in each case as amended, supplemented, novated or replaced from time to time.

**Financing Event of Default** has the meaning given to "Event of Default" in the Financing Documents.

**Group** means the Parent and any undertaking which is a subsidiary and/or subsidiary undertaking of the Parent from time to time (and the expressions "**Group Company**" and "**member of the Group**" shall be construed accordingly).

**Interest Payment Date** means 31 March, 30 June, 30 September and 31 December in each year, provided that the first Interest Payment Date shall be 31 December 2023.

**Interest Period** means the period from the date of issue of each Note up to (and including) the first Interest Payment Date, and each subsequent period from (and including) the day immediately following an Interest Payment Date up to (and including) the next following Interest Payment Date.

**Investor Consent** and **Investor Direction** have the meanings given to those terms in the Ranking and Reinvestment Agreement.

**Investor** has the meaning given to it in the Ranking and Reinvestment Agreement, and "**Investors**" shall be construed accordingly.

**Leaver** has the meaning given to it in the Ranking and Reinvestment Agreement.

**Listing** means the admission of the whole of any class of the issued share capital of the Parent (or any New Holding Company) to the Official List of the Financial Conduct Authority, and to trading on the London Stock Exchange's market for listed securities, or to trading on the Alternative Investment Market of the London Stock Exchange or on any other Recognised Stock Exchange or other stock exchange or multi-lateral trading facility nominated by Investor Direction.

**Loan Notes** means the £0.01 12 per cent. unsecured redeemable loan notes 2031 constituted by this Instrument or, as the case may be, the amount of such Notes from time to time issued and outstanding.

**Majority Noteholders** means the holders of more than 50 per cent. in nominal value of the Notes in issue and outstanding at the relevant time (excluding, for these purposes, any Notes held by a person who is at that time a Leaver).

**New Holding Company** means any new holding company of the Parent formed for the purposes of facilitating a Refinancing or a Listing.

**Noteholder Resolution** means (i) a resolution passed at a meeting of Noteholders duly convened and held in accordance with the provisions of this Instrument and carried by a majority consisting of not less than 50 per cent. of the persons voting at such meeting upon a show of hands or, if a poll is demanded, by a majority consisting of not less than 50 per cent. of the votes given on such poll, or (ii) a resolution in writing passed in accordance with paragraph 16 of Schedule 3.

**Noteholders** means those persons from time to time entered in the Register as holders of the Notes.

**Notes** means the Loan Notes and the PIK Notes, or either of them, and "**Note**" has a corresponding meaning.

**Parent** means Aquila Topco Limited, a company incorporated in England and Wales with registered number 14971854.

**Permitted Transferee** has the meaning given to it in the Ranking and Reinvestment Agreement and "**Permitted Transferees**" shall be construed accordingly.

**PIK Notes** means the payment in kind notes constituted by this Instrument and for the time being issued and outstanding.

**Ranking and Reinvestment Agreement** means the ranking and reinvestment agreement dated on or around the date of this Instrument between (1) the Company (2) the Parent (3) the Investor; and (4) the Reinvesting Security Holders as amended, supplemented, novated, varied, restated or replaced from time to time.

**Recognised Stock Exchange** means a recognised investment exchange, recognised overseas investment exchange, designated investment exchange or designated overseas investment exchange, in each case for the purposes of the Financial Services and Markets Act 2000.

**Refinancing** means a refinancing or recapitalisation of any Group Company (with Investor Consent) including the repayment or redemption of any shares, loan notes (including the Notes) and/or other securities issued by the Parent or any other Group Company.

**Register** has the meaning given to it in clause 9.1.

**Reinvesting Security Holders** has the meaning given to it in the Ranking and Reinvestment Agreement.

**Reorganisation** means a reorganisation or restructuring of the Group (or any Group Company) by any means including (but subject always to compliance with the Companies Act): (a) the conversion, consolidation, sub-division, re-classification (including into deferred shares) and/or re-designation of any shares of a Group Company (including on operation of the Articles in relation to a Listing); (b) the reduction or alteration of the share capital or reserves of any Group Company by any means; (c) the exchange or conversion of any debt securities of any Group Company (Including the Notes) into new shares in the capital of any Group Company; and/or (d) the establishment of, and acquisition of the Parent by, a New Holding Company where the existing shareholders of the Parent immediately prior to the acquisition are also shareholders in the New Holding Company on or immediately following completion of such acquisition (save as otherwise agreed with Investor Consent and the consent of the Reinvesting Security Holders' Representative).

**Sale** means the sale of more than 50 per cent. in number (or such higher percentage as may be specified by Investor Direction) of the ordinary share capital of the Parent held by the Investors to a single buyer or to one or more buyers as part of a single transaction or a series of connected transactions (other than in or as part of a Reorganisation or a sale to one or more Permitted Transferees pursuant to the Articles and/or the Ranking and Reinvestment Agreement).

**Substitute Debtor** has the meaning given to it in clause 15.1.

**Substitution Agreement** has the meaning given to it in clause 15.1.

**Winding-Up** means any winding-up or liquidation of the Company.

**1.2** Any reference in this Instrument to:

**1.2.1** "**this Instrument**" or to any other instrument, agreement or document shall, unless the context otherwise requires, be construed as reference to this Instrument or such other instrument, agreement or document as the same may from time to time be amended, varied, supplemented or novated;

**1.2.2** the "**assets**" of any person shall be construed as a reference to all or any part of its business, undertaking, property, assets, revenues (including any right to receive revenues) and uncalled capital;

**1.2.3** a "**security interest**" shall be construed as a reference to a mortgage, charge, assignment, pledge, lien (save as arising in the ordinary course of business), hypothecation, right of set-off, preferential right (save as arising under the general law for the protection of certain classes of creditors) or trust arrangement for the purpose of and having a similar effect to the granting of security, or other security interest of any kind;

**1.2.4** "**indebtedness**" shall be construed as a reference to any obligation for the payment or repayment of money, whether as principal or as surety and whether present or future, actual or contingent;

- 1.2.5** a "**month**" shall be construed as a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month save that, where any such period would otherwise end on a day which is not a Business Day, it shall end on the next Business Day, unless that day falls in the calendar month succeeding that in which it would otherwise have ended, in which case it shall end on the preceding Business Day provided that, if a period starts on the last Business Day in a calendar month or if there is no numerically corresponding day in the month in which that period ends, that period shall end on the last Business Day in that later month;
- 1.2.6** a "**person**" shall be construed as a reference to any individual, firm, company or other body corporate, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality), and wherever incorporated or established;
- 1.2.7** "**principal monies**" in relation to the Notes shall mean the principal amount of the Notes and the word "**principal**" shall be construed accordingly;
- 1.2.8** "**repayment**" includes redemption and vice versa and the words "**repay**", "**redeem**", "**repayable**", "**redeemable**", "**repaid**" and "**redeemed**" shall be construed accordingly;
- 1.2.9** "**sterling**" and "**£**" denotes the lawful currency of the United Kingdom;
- 1.2.10** "**tax**" shall be construed so as to include any present and future tax, levy, impost, deduction, withholding, contribution, duty or other charge of a similar nature (including, without limitation, any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);
- 1.2.11** the "**winding-up**", "**dissolution**" or "**administration**" of a person shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such person is incorporated or of any jurisdiction in which such person carries on business.
- 1.3** Unless the context requires otherwise, words and expressions defined in or having a meaning provided in the Act shall have the same meaning in this Instrument.
- 1.4** References to any statute or statutory provision shall include references to such statute or statutory provision as in force at the date of this Instrument and as subsequently amended, re-enacted, replaced or consolidated and shall include references to any statute or statutory provision of which it is an amendment, re-enactment, replacement or consolidation.
- 1.5** All the provisions of this Instrument are severable and distinct from one another and the illegality, invalidity or unenforceability of any provision of this Instrument under the law of any jurisdiction shall not affect its validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

**1.6** In construing this Instrument general words introduced by the word "**other**" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and general words followed by the word "**including**" shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.

**1.7** The headings in this instrument are inserted for convenience only and shall not affect construction or interpretation and references to a clause, Schedule, paragraph or Condition are (unless otherwise stated) to a clause or Schedule in this Instrument and to a paragraph or a Condition in the relevant Schedule respectively.

**1.8** References to the Notes include references to all and/or any of the Notes.

## **2. AMOUNT OF NOTES**

**2.1** Without prejudice to clause 2.3, the maximum aggregate principal amount of the Loan Notes constituted by this Instrument is £[•].

**2.2** PIK Notes may only be issued to satisfy interest payments in accordance with Condition 3.3 of Schedule 1. Subject to the foregoing, there is no limit on the total amount of PIK Notes constituted by this Instrument.

**2.3** The Company may from time to time, by resolution of the Directors (with Investor Consent), cancel any created but unissued Notes and/or issue further Loan Notes to be constituted by this Instrument, or a deed or instrument expressed to be supplemental to this Instrument, either so as to be identical in all respects and form a single series with the Loan Notes or to carry such rights as to interest, redemption and otherwise as the Directors (with Investor Consent) may determine.

## **3. DESCRIPTION OF NOTES**

**3.1** The Notes shall be known as the £0.01 12 per cent. unsecured redeemable Loan Notes 2031.

**3.2** The Loan Notes and the PIK Notes shall be issued in integral multiples of £0.01 by the Company.

## **4. PROCEEDS OF ISSUE OF NOTES**

The Noteholders shall not be obliged to concern themselves with the application of amounts raised by the Company under this Instrument.

## **5. STATUS OF NOTES**

**5.1** Without prejudice to clause 7 of the Ranking and Reinvestment Agreement, the Notes constitute direct, general and unconditional obligations of the Company, and:

**5.1.1** the Loan Notes when issued shall rank *pari passu* among themselves; and



**5.1.2** the PIK Notes when issued and all interest as and when accrued shall rank *pari passu* with the Loan Notes in all circumstances and for all purposes.

**5.2** Save as otherwise provided for in the Ranking and Reinvestment Agreement, the Notes shall rank at least *pari passu* to all other present and future unsecured obligations of the Company except for those obligations as may be preferred by law.

## **6. REPAYMENT OF NOTES**

**6.1** When the Notes become repayable in accordance with the provisions of clause 10 or Condition 1, the Company will (subject always to the terms of the Ranking and Reinvestment Agreement) pay to the Noteholders who are entitled to be repaid the full principal amount of the Notes to be repaid together with all accrued interest on such Notes (less any tax which the Company is required by law to deduct or withhold from such interest payment) up to and including the date of payment.

**6.2** All payments under this Instrument, whether of principal, interest or otherwise, will be made by the Company to or to the order of the Noteholders entitled to such payment as provided in paragraph 8 of Schedule 2.

**6.3** Where any payment to a Noteholder, whether of principal, interest or otherwise, is due in accordance with the terms of this Instrument on a day which is not a Business Day, payment shall take place on the next succeeding Business Day. If that next succeeding Business Day is in the month following the month in which payment would otherwise be made, payment shall take place on the immediately preceding Business Day.

**6.4** With the written consent of, or at the direction of, the Majority Noteholders, the Notes may be sold or otherwise transferred to any person, in accordance with the provisions of Condition 6 and Schedule 2, at any time when they would otherwise be repayable under Condition 1 and instead of redemption. The consideration for such a sale or transfer shall be such amount as the Noteholders would be entitled to receive (including accrued interest) had the Notes been repaid in accordance with this clause 6 and Condition 1 (or, subject to the terms of the Ranking and Reinvestment Agreement, such other amount, lower or otherwise, as the Majority Noteholders shall determine). Following any such sale or transfer, the Notes shall be repaid in full at par on the Final Repayment Date or otherwise redeemed in accordance with Condition 1.2 or 1.3.

## **7. INTEREST ON NOTES**

Until the Notes are repaid in accordance with the provisions of this Instrument, interest will accrue and be paid on the principal amount of the Notes which are outstanding at the rate and in the manner set out in the Conditions.

## **8. CERTIFICATES**

**8.1** Each certificate for Notes shall bear a denoting number and shall be issued to a Noteholder under the Company's seal or executed as a deed for and on behalf of the Company. Each

certificate shall be substantially in the form set out in Schedule 1 and shall have the Conditions endorsed on it.

**8.2** Each Noteholder shall be entitled to receive, without charge, one certificate for the Loan Notes registered in its name. If the Company issues PIK Notes to a Noteholder in payment of interest due under this Instrument, the Company shall, on the date on which the PIK Notes are issued, execute a certificate for the PIK Notes issued at that time and deliver it to the relevant Noteholder.

**8.3** The Company shall not be bound to register more than four persons as the joint holders of any Notes and, in the case of Notes held jointly by several persons, the Company shall not be bound to issue more than one certificate. Delivery of a certificate to the person who is first named in the Register as Noteholder shall be sufficient delivery to all joint holders of the Notes in respect of which such certificate has been delivered.

**8.4** When a Noteholder transfers or redeems part only of its Notes in accordance with this Instrument, the old certificate shall be cancelled and a new certificate for the balance of such Notes shall be issued without charge.

## **9. REGISTER**

**9.1** The Company shall at all times keep a register of Noteholders (the "**Register**") at its registered office (or at such other place within the United Kingdom as the Company may from time to time have appointed for the purpose and which is approved by Noteholder Resolution. Subject to clause 9.2, any Noteholder may at all reasonable times during office hours and on reasonable notice inspect, and take copies of, the Register. The Noteholders undertake to the Company to keep any such information strictly confidential.

**9.2** A Noteholder that is a Reinvesting Security Holder shall only be entitled to inspect, and take copies of, information contained in the Register relating to that Reinvestment Security Holder.

**9.3** The Register shall contain the following details:

**9.3.1** the names and addresses of the Noteholders for the time being;

**9.3.2** the principal amount of the Notes and/or PIK Notes held by each Noteholder;

**9.3.3** the date at which the name of each Noteholder is entered in respect of the Notes registered in its name;

**9.3.4** the serial number and date of issue of each Note; and

**9.3.5** all transfers and changes of ownership of the Notes.

**9.4** Any change of name or address by any Noteholder which is notified to the Company at the above address shall be entered in the Register.

## **10. DEFAULT**

**10.1** Notwithstanding any other provision of this Instrument, the Conditions and/or the Schedules, if at any time and for any reason (and whether within or beyond the control of the Company or any relevant Group Company) an Event of Default has occurred, the Company shall within five Business Days of becoming aware of the occurrence of an Event of Default give notice of such fact to the Noteholders and notwithstanding any failure by the Company to give such a notice, at any time following the occurrence of an Event of Default, whilst the same is continuing and has not been waived by a Noteholder Resolution, the Majority Noteholders may, by written notice to the Company, direct that the principal amount of all Notes, all unpaid accrued interest and any other sum then payable on such Notes, shall be due and payable immediately, whereupon, subject to the terms of the Ranking and Reinvestment Agreement, the Company shall immediately pay or repay such amounts to the Noteholders.

**10.2** The following are Events of Default for the purpose of clause 10.1:

**10.2.1 Failure to pay:** the Company fails to pay any principal monies or interest on any of the Notes within 10 Business Days after the due date for payment therefor (except where any such payment would breach the terms of any of the Financing Documents or the Ranking and Reinvestment Agreement);

**10.2.2 Breach of undertaking:** the Company fails duly to perform or comply with any obligation (other than an obligation to pay principal or interest in respect of the Notes) expressed to be assumed by it in this Instrument or in the Ranking and Reinvestment Agreement and such failure continues for 20 Business Days after written notice has been given by the Majority Noteholders requiring remedy thereof;

**10.2.3 Insolvency:** the Company or any Group Company is or could be deemed by law or a court to be insolvent or unable to pay its debts (as defined in sections 123(1)(e) and 123(2) of the Insolvency Act 1986), stops, suspends or threatens to stop or suspend payment of all or any material part of its indebtedness or commences negotiations with any one or more of its creditors with a view to the general readjustment or re-scheduling of all or any material part of its indebtedness or makes a general assignment for the benefit of, or composition with or for the benefit of its creditors (or any class of its creditors) or a moratorium is agreed or declared in respect of, or affecting, all or a material part of its indebtedness;

**10.2.4 Winding-up:** an order is made or an effective resolution is passed for the winding-up or dissolution of the Company or any material Group Company (other than for the purposes of a Reorganisation whereunder a successor company undertakes the obligations of the Company or such other Group Company), or an administrative or other receiver, administrator, liquidator, provisional liquidator, trustee or similar officer is appointed over all or any material part of its assets;

- 10.2.5 Enforcement proceedings:** a distress, attachment, execution or other legal process is levied, enforced or sued out on or against all or any part of the assets of any material Group Company and is not discharged or stayed within 10 Business Days of having been so levied, enforced or sued out;
- 10.2.6 Analogous proceedings:** anything analogous to or having a substantially similar effect to any of the events specified in clauses 10.2.3 to 10.2.5 inclusive shall occur under the laws of any applicable jurisdiction;
- 10.2.7 Cross-default:** a Financing Event of Default occurs and is continuing;
- 10.2.8 Security interest enforceable:** any security interest on or over the assets of the Company or any Group Company becomes enforceable and any step (including the taking of possession or the appointment of a receiver, manager or similar person) is taken to enforce that security interest;
- 10.2.9 Illegality:** it is or becomes or will become unlawful for the Company to perform or comply with any of its obligations under this Instrument or any such obligation is not or ceases to be legal, valid and binding;
- 10.2.10 Cessation of business:** the Company or any material Group Company ceases to carry on the whole of the business it carries on at the date of this Instrument or a substantial part thereof without Investor Consent; or
- 10.2.11 Authorisations:** at any time any action, condition or thing required to be taken, fulfilled or done by the Company in order (i) to enable the Company lawfully to enter into, exercise its rights under and perform and comply with its obligations under this Instrument and any other document to be entered into pursuant to this Instrument or (ii) to make this Instrument admissible in evidence in England and Wales is not taken, fulfilled or done by the Company.
- 10.3** The Company shall inform the Noteholders in writing as soon as reasonably practicable after becoming aware that an Event of Default is likely to occur, giving details of the situation and/or circumstances in question.

## **11. CONTINUING SECURITY**

This Instrument shall constitute a continuing security for that part of the Notes remaining unredeemed until all the Notes together with all accrued interest shall have been repaid in full.

## **12. NO SET-OFF**

Payments of principal and interest under this Instrument will be paid by the Company to the Noteholders, and the Notes will be transferable in accordance with the provisions of Condition 6 and Schedule 2 and the relevant provisions of the Ranking and Reinvestment Agreement without any deduction or withholding (whether in respect of set-off, counterclaim, duties, taxes or otherwise whatsoever (save as expressly provided for in the Ranking and Reinvestment Agreement in respect of any Leaver)) unless the deduction or withholding is required by law, in which event the Company shall:

- 12.1** ensure that the deduction or withholding does not exceed the minimum amount legally required;
- 12.2** pay to the relevant taxation or other authorities, within the period for payment permitted by applicable law, the full amount of the deduction or withholding; and
- 12.3** furnish to the Noteholders, within the period for payment permitted by applicable law, an official receipt or other evidence of payment to the relevant taxation or other authorities involved for all amounts deducted or withheld as aforesaid.

## **13. ENFORCEMENT**

From and after the date of this Instrument and so long as any amount is payable by the Company in respect of the Notes, the Company undertakes that it will duly observe and perform the obligations on its part contained in this Instrument and the Notes shall be issued and held subject to and with the benefit of the provisions of this Instrument, the Conditions and the Schedules, all of which shall be deemed to be incorporated in this Instrument and be binding on the Company, the Noteholders and all persons claiming through or under them respectively and shall enure for the benefit of all Noteholders. Each Noteholder shall be entitled to sue for the observance and performance of the provisions of this Instrument so far as its holding of Notes is concerned. No other person shall have any right to enforce any term or condition of this Instrument under the Contracts (Rights of Third Parties) Act 1999.

## **14. MODIFICATION OF RIGHTS**

- 14.1** Subject always to clause 7 of the Ranking and Reinvestment Agreement, the provisions of this Instrument, the Conditions and/or the rights of the Noteholders may at any time be modified, abrogated or compromised in any respect (including, without limitation, in any manner described in clause 14.2) and any scheme or arrangement proposed in respect of the rights of the Noteholders against the Company or any other Group Company or the property of the Noteholders may be agreed, in each case with the consent of the Company and with the prior sanction of the Noteholders acting by a Noteholder Resolution.
- 14.2** Subject always to clause 2.1, Schedule 4 and clause 7 of the Ranking and Reinvestment Agreement, the Noteholders may, by Noteholder Resolution:

- 14.2.1** sanction any compromise or arrangement proposed to be made between the Company and/or the Noteholders;
- 14.2.2** sanction any abrogation, modification or compromise or any arrangement in respect of the rights of the Noteholders against the Company or its property, whether such rights shall arise under this Instrument or otherwise;
- 14.2.3** sanction any scheme for the reconstruction of the Company or for the amalgamation of the Company with any other entity;
- 14.2.4** sanction any scheme or proposal for the sale or exchange of the Notes for, or the conversion of the Notes into, cash or shares, stock, debentures, debenture stock or other obligations or securities of the Company or any other company or undertaking formed or to be formed and for the appointment of some person with power on behalf of the Noteholders to execute an instrument of transfer of the Notes held by them in favour of the person to or with whom the Notes are to be sold or exchanged (as the case may be);
- 14.2.5** assent to any modification or abrogation of the provisions contained in this Instrument, which shall be proposed by the Company and authorise the Company to execute an instrument supplemental to the Instrument embodying any such modification or abrogation;
- 14.2.6** authorise any person to execute any deed(s) or document(s) and do all such acts and things as may be necessary to give effect to a Noteholder Resolution;
- 14.2.7** give any authority or sanction which under the provisions of this Instrument is required to be given by Noteholder Resolution;
- 14.2.8** waive any rights of a Noteholder in respect of the Notes; and
- 14.2.9** appoint any persons (whether Noteholders or not) as a committee or committees to represent the interests of the Noteholders for any purpose and to confer upon such committee or committees any powers or discretions which the Noteholders could themselves exercise by Noteholder Resolution,

and any such Noteholder Resolution shall be binding on all of the Noteholders.

## **15. SUBSTITUTION OF DEBTOR**

**15.1** The Company may (with the prior sanction of the Noteholders acting by a Noteholder Resolution and with Reinvesting Security Holder Consent (as defined in the Ranking and Reinvestment Agreement)) agree in writing with any Group Company from time to time or any holding company of any Group Company from time to time (such agreement being a "**Substitution Agreement**") that:

- 15.1.1** such Group Company or holding company (the "**Substitute Debtor**") shall undertake and perform and be bound by all of the obligations of the Company

under this Instrument (including accrued, present, future and prospective such obligations) (the "**Debtor's Obligations**"), as if the Substitute Debtor was originally named in this Instrument as the Company; and

- 15.1.2** conditional upon the Substitute Debtor so undertaking the Debtor's Obligations, the Company shall be released and discharged from all of its obligations under this Instrument,

and following the entry into of any such Substitution Agreement, the Substitute Debtor shall assume all of the Debtor's Obligations pursuant to this Instrument in the place of and in substitution for the Company. For the avoidance of doubt, Reinvesting Security Holder Consent shall not be required in connection with any action taken in accordance with clause 7 of the Ranking and Reinvestment Agreement save to the extent required by clause 7 of the Ranking and Reinvestment Agreement.

## **16. RANKING AND REINVESTMENT AGREEMENT**

The rights of the Noteholders and the obligations of the Company in respect of the Notes, any certificate for the Notes and provisions of this Instrument shall be subject in all respects to the provisions of the Ranking and Reinvestment Agreement and the Financing Documents.

## **17. GOVERNING LAW AND JURISDICTION**

- 17.1** This instrument and the Notes and any dispute or claim arising out of or in connection with any of them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the law of England and Wales.

- 17.2** The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this instrument or any Note or their subject matter or formation (including non-contractual disputes or claims).

**SCHEDULE 1**  
**FORM OF [LOAN]/[PIK] NOTE CERTIFICATE (WITH CONDITIONS)**

<b>Certificate No.</b>	<b>Date</b>	<b>Amount £</b>
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**AQUILA TOPCO LIMITED**

**(Incorporated under the Companies Act 2006)**

**£0.01 [12 PER CENT. UNSECURED REDEEMABLE LOAN NOTES 2031] / [12 PER CENT. UNSECURED REDEEMABLE PAYMENT IN KIND NOTES]**

**THIS IS TO CERTIFY THAT** the under-mentioned is/are the registered holder(s) of the amount set out below of the [£0.01 12 per cent. unsecured redeemable Loan Notes 2031]/[12 per cent. unsecured redeemable Payment in Kind Notes] constituted by an Instrument entered into by the Company on [●] [●] 2023 (the "**Instrument**") and issued with the benefit of and subject to the provisions contained in the Instrument and the Conditions.

**NAME(S) OF HOLDERS**

**AMOUNT OF [LOAN/PIK] NOTES**

1. The Notes are repayable or redeemable in accordance with Condition 1.
2. This certificate must be surrendered before any transfer, whether of the whole or any part of the Notes comprised in it, can be registered or any new certificate issued in exchange.
3. Any change of address of the Noteholder(s) must be notified in writing signed by the Noteholder(s) to the Company.
4. The Notes are transferable in amounts and in integral multiples of £0.01 in accordance with the Conditions.
5. Words and expressions defined in the Instrument shall bear the same meaning in this certificate and in the Conditions endorsed hereon.
6. Noteholders should note that the payment or repayment (as the case may be) of interest or principal in respect of the Notes is subject to the provisions of the Ranking and Reinvestment Agreement, the effect of which (inter alia) may be to prohibit, reduce or delay the payment or repayment thereof. In addition, Noteholders should note that their rights (inter alia) to demand and enforce payment of amounts which, but for the operation of the Ranking and Reinvestment Agreement, would otherwise have been payable to them, are suspended by the Ranking and Reinvestment Agreement until such time as the terms of the Ranking and Reinvestment Agreement can be complied with and neither shall the Company be in breach of contract, nor the Directors in breach of their duty, by suspending payments to Noteholders in these circumstances in order to comply with the terms of the Ranking and Reinvestment Agreement.



**IN WITNESS** whereof the Company has duly executed this Certificate as a deed on the day and year first written above.

**DATED:** [•] [•] 20[•]

**EXECUTED and DELIVERED** )  
as a **DEED** by )  
**AQUILA MIDCO 1 LIMITED** )  
acting by: )

.....  
Director

in the presence of:

Witness

Signature: .....

Name: .....

Address: .....

.....

.....

Occupation: .....

## THE CONDITIONS

### 1. REPAYMENT

- 1.1** Subject to the terms of the Ranking and Reinvestment Agreement and clause 6.4 of the Instrument, unless previously redeemed in accordance with Conditions 1.2 or 1.3 or following the occurrence of an Event of Default under clause 10 of the Instrument, all the Notes then outstanding shall be repaid in full at par and all accrued interest shall be paid in full immediately prior to an Exit or, if earlier, on the Final Repayment Date.
- 1.2** Subject to the terms of the Ranking and Reinvestment Agreement, the Company may with Investor Consent at any time on or after the date which is six months and one day after the issue of the relevant Notes, upon not less than 10 Business Days' written notice to each Noteholder (or such shorter period as the Company and the Majority Noteholders shall agree), repay at par some or all of the outstanding Notes on the date specified for redemption in such notice in accordance with clause 6 of the Instrument.
- 1.3** The Majority Noteholders may, with the consent of the Directors unless an Event of Default is existing or otherwise where there is a refinancing of the Loan Notes (as required by an Investor Direction), at any time on or after the date which is six months and one day after the issue of the relevant Notes, upon not less than 10 Business Days' written notice to the Company (or such shorter period as the Company and the Majority Noteholders shall agree), require the Company to repay some or all of the outstanding Notes. On receipt of such notice the Company shall, subject to the terms of the Ranking and Reinvestment Agreement, redeem the relevant Notes at par on the date specified for redemption in such notice.
- 1.4** Subject to clause 9 (Leavers) of the Ranking and Reinvestment Agreement, any redemption of the Notes shall be made pro rata to the holdings of the relevant Noteholders together with all interest (less any tax required by law to be deducted or withheld from such payment) accrued on the Notes to be redeemed up to (and including) the date of such redemption by the Company.
- 1.5** If the whole or any part of a Noteholder's holding of Notes is to be redeemed pursuant to this Condition 1, the Noteholder must, not later than the due date for payment, deliver to the Company at its registered office the certificate(s) for the Notes which are due to be redeemed on such date (or a suitable indemnity in lieu thereof).
- 1.6** If a Noteholder fails to comply with its obligations under Condition 1.5 or fails or refuses to accept or claim the redemption monies tendered by the Company in respect of the Notes then due for redemption, the monies payable to such Noteholder shall be set aside by the Company and paid into a separate interest-bearing bank account and held by the Company in trust for such Noteholder. Such setting aside shall be deemed for all the purposes of these Conditions to be a payment to such Noteholder. Accordingly, the Company shall be discharged from all further obligations in connection with such Notes. If the Company places the said monies on deposit at a bank, the Company shall not be responsible for the safe custody of such monies or for interest thereon but shall account

to the Noteholder for any interest which such monies may earn whilst on deposit, less any tax and reasonable expenses which the Company incurs directly in connection therewith. Any such amount so paid or deposited and which remains unclaimed after a period of 12 years from the making of the payment or deposit shall revert to the Company notwithstanding that in the intervening period the obligation to pay the same may have been provided for in the books, accounts and other records of the Company.

## **2. CANCELLATION**

All Notes redeemed by the Company in accordance with the terms hereof shall be cancelled and the Company shall not re-issue the same. On any repayment of Notes, the certificate(s) for the relevant Notes delivered by the Noteholder(s) under Condition 1.5 shall be cancelled and the Company shall issue to the relevant Noteholder(s), free of charge, a certificate for the balance of the principal amount of the Notes held by it/them (if any) following such repayment.

## **3. PAYMENT OF INTEREST**

**3.1** Subject to clause 9 (Leavers) of the Ranking and Reinvestment Agreement, until the Notes are redeemed in accordance with these Conditions, interest on the principal amount of the Notes shall accrue at the rate of 12 per cent. per annum (including, for the avoidance of doubt, if after the Final Repayment Date, repayment has not been made in accordance with Condition 1.1).

**3.2** Such interest shall accrue from day to day on the principal amount of the Notes. Subject to Condition 3.4 below and without prejudice to Condition 3.8, the Company (with Investor Consent and subject to the Financing Documents and the Ranking and Reinvestment Agreement) may elect to pay such interest or any lesser sum in cash in arrears on each Interest Payment Date for the Interest Period ending on that Interest Payment Date (or at such other times and in respect of such other periods as the Company (with Investor Consent) may determine), less any tax required by law to be deducted or withheld from such amount, to the persons who were registered as Noteholders at the close of business on the date immediately prior to the relevant Interest Payment Date, provided that such cash payment shall not exceed 50% of the accrued interest on the Notes in any given 12 month period (save with Investor Consent).

**3.3** Interest that has accrued on the Notes but which the Company has not elected to pay in cash under Condition 3.2 and in respect of which no PIK Notes have been issued, shall be rolled-up and compounded on each Interest Payment Date so that it bears interest from such date as it would had it been added on the relevant Interest Payment Date to the principal amount of the Notes then outstanding and shall become payable in cash, less any tax required by law to be deducted or withheld from such payment, on the date on which the Notes in respect of which such interest has accrued become repayable pursuant to Condition 1 or clause 10 of the Instrument or subject to the terms of the Ranking and Reinvestment Agreement, such earlier date as the Company, with Investor Consent, may think fit.

- 3.4** Subject to Condition 3.8, the Company may at any time, in its sole discretion but with prior Investor Consent, satisfy its obligation to pay interest in respect of the Notes by issuing PIK Notes to the relevant Noteholders (on the basis of £0.01 nominal amount of PIK Notes for every £0.01 of interest due to the Noteholder, rounded upwards to the nearest £0.01) in full or partial satisfaction of any interest that has accrued in respect of the Notes up to that date (if and to the extent that such interest has not previously been paid or satisfied by the issue of PIK Notes). The issue of the PIK Notes shall be treated as if it were a payment of interest due in respect of such Notes of an amount equal to the nominal value of the PIK Notes at the time of issue. For the avoidance of doubt, the Company may not issue PIK Notes without prior Investor Consent, and any PIK Notes issued without such prior Investor Consent shall be null and void.
- 3.5** Any PIK Notes issued by the Company pursuant to Condition 3.4 shall be issued on identical terms *mutatis mutandis* to the Loan Notes issued pursuant to, and constituted by, this Instrument (including, without limitation, in relation to the payment of interest and redemption, but excluding their aggregate nominal amount and issue date).
- 3.6** In respect and on account of the tax liability of the relevant Noteholder to whom any PIK Notes are issued (but not otherwise), the Company may retain such proportion of any issue of PIK Notes pursuant to Condition 3.4 as shall equal the appropriate rate of tax on the interest for the year of assessment in which the PIK Notes are issued to satisfy its obligations pursuant to section 939(2) of the Income Tax Act 2007 and the Company shall on or before the issue of any such PIK Notes provide to the relevant Noteholder any statement or certificate required to be issued or provided by law (including any statement required by section 975A of the Income Tax Act 2007).
- 3.7** If the Company reasonably considers that it is impracticable to retain PIK Notes on account of tax, it may provide to HM Revenue & Customs details of the names and addresses of the persons to whom PIK Notes have been issued and of the amount of PIK Notes issued to each person.
- 3.8** Any Noteholder may serve a notice on the Company electing that interest on their Notes shall not be payable by way of issue of PIK Notes, and for each Interest Payment Date thereafter, interest on the relevant Notes shall be payable in accordance with Condition 3.3. An election not to receive PIK Notes in payment of interest shall apply until the relevant Noteholder serves a counter-notice on the Company, and for each Interest Payment Date thereafter, interest shall be payable in accordance with the counter-election. Any notice served by a Noteholder pursuant to this Condition 3.8 shall be writing, signed by or on behalf of the relevant Noteholder and must be received by the Company not later than 5 Business Days prior to the first Interest Payment Date in respect of which the election or counter-election (as appropriate) is to apply. For the avoidance of doubt (i) no Noteholder may require the issue of any PIK Notes, which shall be at the sole discretion of the Company (with prior Investor Consent); and (ii) once an election not to receive PIK Notes is delivered by a Noteholder in accordance with this Condition 3.8, it shall apply in perpetuity until such time as that Noteholder delivers a counter-notice to the Company to revoke such election.

- 3.9** Interest shall be calculated on the basis of the actual number of days for the relevant period and a 365-day year (or a 366-day year in a leap year).
- 3.10** Interest on any Notes redeemed by the Company in accordance with these Conditions shall cease to accrue as from the date of such redemption.
- 3.11** If the Company fails to pay any amount of principal or interest on any Note on the due date for payment of the same, a debt shall be created equal to such amount and interest at the rate applicable under these Conditions plus 1 per cent. per annum shall accrue on the unpaid amount from the due date until the date of actual payment, other than in respect of any period during which any such payment would be prohibited under the terms of the Ranking and Reinvestment Agreement. For the purposes of this Condition 3.11, the "**due date**" shall be the date on which the relevant amount becomes payable in accordance with Condition 1 or 3 (as the case may be) or where an Event of Default has occurred, the date on which the Noteholders shall direct that the Notes are repayable under clause 10 of the Instrument, provided that if the Notes shall have become repayable by reason of a resolution being passed or an order being made for the winding-up of the Company or any Group Company under clause 10.2.4 of the Instrument, the "**due date**" shall be the date on which the resolution is passed or the date on which the petition for winding-up is presented, as the case may be.

#### **4. NOTICES**

Any Noteholder described in the Register as being at an address outside the United Kingdom but who shall from time to time give to the Company an address within the United Kingdom at which any notice may be served upon it shall be entitled to have notice served on it at such address. Save as otherwise provided in this Condition 4, no Noteholder other than a Noteholder described in the Register as being at an address within the United Kingdom shall be entitled to receive any notice.

#### **5. MODIFICATION**

Subject always to clause 2.1, Schedule 4 and clause 7 of the Ranking and Reinvestment Agreement, the provisions of the Instrument, these Conditions and/or the rights of the Noteholders may at any time be modified, abrogated or compromised in any respect (including without limitation, in any manner described in clause 14.2 of the Instrument) and any scheme or arrangement proposed in respect of the rights of the Noteholders against the Company or any other Group Company or the property of the Noteholders may be agreed, in each case with the consent of the Company (with prior written Investor Consent) and with the prior sanction of the Noteholders acting by a Noteholder Resolution.

#### **6. TRANSFER**

- 6.1** The Notes are registered and are transferable in accordance with the provisions of paragraphs 2 to 5 of Schedule 2 in amounts and in integral multiples of £0.01.

#### **7. FOREIGN EXCHANGE**

**7.1** The Company may, by notice in writing to the Noteholder given on or before a date (the "**election date**") not less than 30 days before any redemption date, elect that any outstanding Notes to be redeemed on the next redemption date shall be redeemed in US dollars in which event the Company shall, on the due date for redemption of such Notes and in full discharge of its obligations to repay such Notes, pay to the Noteholder an amount in US dollars obtained by converting the principal amount outstanding of such Notes into US dollars at the selling spot rate for the purchase of US dollars with sterling certified by HSBC Bank plc as prevailing at or about 11.00 a.m. on the election date or, where the election date is not a Business Day, on the next Business Day falling thereafter which exchange rate shall be certified on such date by the Company to such Noteholder provided that:

**7.1.1** if the amount payable in US dollars hereunder would otherwise exceed the amount in US dollars obtained by converting 100.25% of the sterling principal amount outstanding of the Notes to be redeemed into US dollars at the selling spot rate for the purchase of US dollars with sterling certified by HSBC Bank plc as prevailing at or about 11.00 a.m. on the relevant redemption date, the latter amount shall be substituted therefor;

**7.1.2** if the amount payable in US dollars hereunder would otherwise be less than the amount in US dollars obtained by converting 99.80% of the sterling principal amount outstanding of the Notes to be redeemed into US dollars at the selling spot rate for the purchase of US dollars with sterling certified by HSBC Bank plc applied by the or about 11.00am on the relevant redemption date, the latter amount shall be substituted therefor.

**7.2** For the purposes of this Condition 7, a "redemption date" means any date (not falling within six months of the date of issue of the Notes concerned) on which the Noteholder may require the Company to repay all or part of its Notes or on which the Company may redeem all or part of the Notes then outstanding.

**SCHEDULE 2**  
**PROVISIONS AS TO REGISTRATION, TRANSFER AND OTHER MATTERS**

**1. RECOGNITION OF NOTEHOLDER AS ABSOLUTE OWNER**

The Company will recognise as absolute owner the registered holder of any Notes. The Company shall not (except as ordered by a court of competent jurisdiction) be bound to take notice or see to the execution of any trust (whether express, implied or constructive) to which any Notes may be subject. The receipt of the registered holder for the time being of any Notes or, in the case of joint registered holders, the receipt of any of them, of the principal monies payable in respect of such Notes and of the interest from time to time accruing due in respect of such Notes or of any other monies payable in respect of such Notes shall be a good discharge to the Company notwithstanding any notice it may have (whether express or otherwise) of the right, title, interest or claim of any other person to or in such Notes, interest or monies. The Company shall not be bound to enter any notice of any express, implied or constructive trust on the Register in respect of any Notes.

**2. TRANSFERABILITY OF NOTES**

**2.1** The Notes shall be freely transferable in accordance with this Schedule 2.

**2.2** The Notes are transferable by instrument in writing in the usual common form (or in such other form as the Directors may reasonably approve, such approval not to be unreasonably withheld or delayed) in amounts and multiples of £0.01.

**3. EXECUTION OF TRANSFERS**

Every instrument of transfer must be duly signed by or on behalf of the transferor and the transferor shall be deemed to remain the owner of the Notes to be transferred until the transferee's name is entered in the Register in respect of such Notes.

**4. REGISTRATION OF TRANSFERS**

Every instrument of transfer must be left for registration at the address where the Register is maintained for the time being (as referred to in clause 9.1 of this Instrument) accompanied by the certificate(s) for the Notes to be transferred. All instruments of transfer which are registered shall be retained by the Company.

**5. NO FEES FOR REGISTRATION OF TRANSFERS**

No fee shall be charged for the registration of any transfer or for the registration of any confirmation, power of attorney or other document relating to or affecting the title to any Notes or for making any entry in the Register relating to or affecting the title to any Notes.

**6. RECOGNITION OF PERSONAL REPRESENTATIVES**

The executors or administrators of a deceased Noteholder (not being one of several joint registered holders) and in the case of the death of one or more of several joint registered

holders the survivor or survivors of such joint registered holders shall be the only person or persons recognised by the Company as having any title to such Notes.

**7. TRANSMISSION OF NOTES**

Any person who becomes entitled to any of the Notes as a result of the death or bankruptcy of any Noteholder, or of any event giving rise to the transmission of such Notes by operation of law may, upon producing such evidence of their entitlement as the Directors shall think sufficient, and subject to having first adhered to the Ranking and Reinvestment Agreement in accordance with its respective terms, be registered themselves as the holder of such Notes or, subject to the preceding conditions as to transfer, may transfer such Notes. The Company may retain any payments paid upon any such Notes which any person under this provision is entitled to transfer until such person is registered or has duly transferred the Notes.

**8. PAYMENT OF INTEREST AND PRINCIPAL**

The payments of principal, interest or other sums payable in respect of the Notes may be paid by electronic transfer to the account specified for such purpose by the Noteholder or joint Noteholders in writing to the Company, failing which notification, by cheque, warrant or banker's draft made payable to and sent to the registered address of the Noteholder or, in the case of joint registered holders, made payable to the order of and sent to the registered address of that one of the joint registered holders who is first named on the Register or made payable to such person and sent to such address as the registered holder or all the joint registered holders may in writing direct. Every such cheque, warrant or banker's draft must, if sent through the post, be sent not later than two Business Days preceding the due date for payment and payment of the cheque, warrant or banker's draft shall be a good discharge to the Company.

**9. RECEIPT OF JOINT HOLDERS**

If several persons are entered in the Register as joint registered holders of any Notes then, without prejudice to the provisions of paragraph 8, the receipt of any one of such persons for any interest or principal or other monies payable in respect of such Notes shall be as effective a discharge to the Company as if the person signing such receipt were the sole registered holder of such Notes.

**10. REPLACEMENT OF CERTIFICATES**

If the certificate for any Notes is lost, defaced or destroyed it may be renewed on such terms (if any) as to evidence and indemnity as the Directors may reasonably require but otherwise free of charge to the Noteholder. In the case of defacement the defaced certificate shall be surrendered before the new certificate is issued.

**11. NOTICE TO NOTEHOLDERS**

Any notice, request, demand or other document (including certificates for Notes) may be given or sent to any Noteholder by sending the same by post in a prepaid, first-class



envelope addressed to such Noteholder at its registered address in the United Kingdom or (if it has no registered address within the United Kingdom) to the address (if any) supplied by it to the Company for the giving of notice to it or to the address which appears in the Register in respect of such Noteholder. In the case of joint registered holders of any Notes a notice given to the Noteholder whose name stands first in the Register in respect of such Notes shall be sufficient notice to all joint holders. Notice may be given to the persons entitled to any Notes as a result of the death or bankruptcy of any Noteholder by sending the same by post in a prepaid, first-class envelope addressed to them by name or by the title of the representative or trustees of such Noteholder at the address (if any) supplied for the purpose by such persons or (until such address is supplied) by giving notice in the manner in which it would have been given if the death or bankruptcy had not occurred.

**12. NOTICE TO THE COMPANY**

Any notice, request, demand or other document (including certificates for Notes and transfers of Notes) may be given or sent to the Company by sending the same by post in a prepaid, first-class envelope addressed to the Company at its registered office for the time being.

**13. SERVICE OF NOTICES**

Any notice, request, demand or other document given or made by delivery shall be deemed to have been delivered or received when left at the appropriate address referred to in paragraph 11 or 12 above, or, if sent by post, on the second Business Day following the day on which it was posted. In proving delivery or receipt of any notice, request, demand or other document sent by post it shall be sufficient to prove that it was properly addressed, stamped and posted (by airmail, if to another country) in the United Kingdom.

**SCHEDULE 3**  
**PROVISIONS FOR MEETINGS OF THE NOTEHOLDERS**

**1. CALLING OF MEETINGS**

The Company may (with prior Investor Consent) at any time and shall upon the request in writing signed by the registered holders of not less than 50 per cent. in nominal value of the Notes for the time being outstanding convene a meeting of the Noteholders to be held at such place as the Company shall determine.

**2. NOTICE OF MEETINGS**

At least 14 clear days' notice specifying the place, day and hour of the meeting shall be given to the Noteholders of any meeting of Noteholders in the manner provided in Schedule 2. Any such notice shall specify the general nature of the business to be transacted at the meeting thereby convened but, except in the case of a resolution to be proposed as a Noteholder Resolution, it shall not be necessary to specify the terms of any resolutions to be proposed. The non-receipt of notice by, or the accidental omission to give notice to, any Noteholder shall not invalidate any resolution passed at any such meeting.

**3. CHAIR OF MEETINGS**

A person nominated by the Company (with Investor Consent) shall be entitled to take the chair at any such meeting and if no such nomination is made, or if at any meeting the person nominated shall not be present within 15 minutes after the time appointed for holding the meeting, the Noteholders present shall choose one of their number to be Chair. In addition to the Noteholders, the Directors, the Secretary (if any), any legal advisers of the Company or the Noteholders and any other person authorised by the Directors may attend any such meeting.

**4. QUORUM AT MEETINGS**

At any such meeting convened for any purpose other than the passing of a Noteholder Resolution, a person or persons (at least one of whom shall be an Investor or a representative of an Investor appointed to attend and vote at the meeting on that Investor's behalf) holding or representing by proxy one tenth in nominal value of the Notes for the time being outstanding shall form a quorum for the transaction of business. At any meeting convened for the purpose of passing a Noteholder Resolution, persons (at least two in number, at least one of whom shall be an Investor or a representative of an Investor appointed to attend and vote at the meeting on that Investor's behalf) holding or representing by proxy a clear majority in nominal value of Notes for the time being outstanding shall form a quorum.

**5. ABSENCE OF QUORUM**

If within 30 minutes from the time appointed for any meeting of the Noteholders a quorum is not present the meeting shall, if convened upon the requisition of the Noteholders, be

dissolved. In any other case it shall stand adjourned to such day and time (being not less than 14 days and not more than 42 days thereafter) and to such place as may be appointed by the Chair and at such adjourned meeting two Noteholders present in person or by proxy and entitled to vote, whatever the principal amount of the Notes held by them, shall form a quorum and shall have power to pass any Noteholder Resolution or other resolution and to decide upon all matters which could properly have been disposed of at the meeting from which the adjournment took place.

## **6. ADJOURNMENT OF MEETINGS**

The Chair may with the consent of (and shall if directed by) any meeting at which a quorum is present adjourn the same from time to time and from place to place. No business shall be transacted at any adjourned meeting other than business which might lawfully have been transacted at the meeting from which the adjournment took place.

## **7. NOTICE OF ADJOURNED MEETINGS**

Notice of any adjourned meeting at which a Noteholder Resolution is to be submitted shall be given in the manner provided for in the Instrument. Such notice shall state that two Noteholders present in person or by proxy and entitled to vote at the adjourned meeting (at least one of whom shall be an Investor or a representative of an Investor appointed to attend and vote at the meeting on that Investor's behalf), will form a quorum, and shall have power to pass any Noteholder Resolution or other resolution to be proposed at the meeting.

## **8. VOTING**

**8.1** Every question submitted to a meeting of Noteholders shall be decided in the first instance by a show of hands. In case of an equality of votes the Chair shall not have a casting vote in addition to the vote or votes (if any) to which they may be entitled as a Noteholder or as a duly appointed proxy, either on a show of hands or on a poll.

**8.2** Subject to paragraph 8.4, on a show of hands every Noteholder who (being an individual) is present in person or by proxy or (being a corporation) is present by a representative (not being themselves a Noteholder) shall have one vote. On a poll every Noteholder shall have one vote for every £0.01 in nominal amount of the Notes of which it is the registered holder. On a poll, votes may be given either personally or by proxy. A Noteholder entitled to more than one vote need not use all its votes or cast all the votes it uses in the same way.

**8.3** The registered holders of any of the Notes or, in the case of joint holders, any one of them shall be entitled to vote in respect thereof either in person or by proxy and in the latter case as if such joint holder were solely entitled to such Notes. If more than one of such joint holders is present at any meeting either personally or by proxy the vote of the senior who tenders a vote (seniority being determined by the order in which the joint holders are named in the Register) shall be accepted to the exclusion of the votes of the other joint holders.

**8.4** Notwithstanding any other provision of this Schedule 3 or the Instrument, a Noteholder who is at the relevant time a Leaver shall not be entitled to receive notice of or attend any meeting of Noteholders, and shall not count towards the quorum and shall not be entitled to vote at such meeting, whether on a show of hands or on a poll.

**9. DEMAND FOR POLL**

At any meeting of Noteholders, unless (before or on the declaration of the result of the show of hands) a poll is demanded by the Chair or by one or more Noteholders present in person or by proxy and holding or representing in the aggregate not less than 50 per cent. in nominal value of the Notes then outstanding, a declaration by the Chair that a resolution has been carried or carried by a particular majority or lost or not carried by any particular majority shall be conclusive evidence of the fact.

**10. MANNER OF TAKING POLL**

If at any such meeting a poll is so demanded it shall be taken in such manner as the Chair may direct. The result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn at any time before the poll is taken.

**11. TIME FOR TAKING POLL**

Any poll demanded at any such meeting on the election of a Chair or on any question of adjournment shall be taken at the meeting without adjournment. A poll demanded on any other question shall be taken at such time and place as the Chair may direct. No notice need be given of a poll not taken immediately. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

**12. INSTRUMENT APPOINTING PROXY**

Every instrument appointing a proxy must be in writing, signed by the appointor or their attorney or, in the case of a corporation, under its common seal, or signed by its attorney or a duly authorised officer and shall be in such form as the Directors may approve. Such instrument of proxy shall, unless the contrary is stated thereon, be valid both for an adjournment of the meeting and for the meeting to which it relates and need not be witnessed. A person appointed to act as a proxy need not be a Noteholder.

**13. DEPOSIT OF INSTRUMENT APPOINTING PROXY**

The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified or office copy of such power or authority shall be deposited with the Company at the registered office of the Company for the time being or at such other place as may be specified in the notice convening the meeting not later than the time appointed for holding the meeting or adjourned meeting or the taking of a poll at which the person named in such instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid. A vote given in accordance with the

terms of an instrument appointing a proxy shall be valid notwithstanding the previous death, insanity or bankruptcy of the principal or revocation of the instrument of proxy or of the authority under which the instrument of proxy is given or transfer of the Notes in respect of which it is given unless previous intimation in writing of such death, insanity, bankruptcy, revocation or transfer shall have been received by the Company at the registered office of the Company for the time being. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date named in it as the date of its execution.

#### **14. POWER OF MEETINGS OF NOTEHOLDERS**

**14.1** In addition to any other powers it may have, a meeting of the Noteholders may, subject to clause 2.1, Schedule 4 and clause 7 of the Ranking and Reinvestment Agreement, by Noteholder Resolution:

**14.1.1** sanction any compromise or arrangement proposed to be made between the Company and/or the Noteholders;

**14.1.2** sanction any abrogation, modification or compromise or any arrangement in respect of the rights of the Noteholders against the Company or its property, whether such rights shall arise under this Instrument or otherwise;

**14.1.3** sanction any scheme for the reconstruction of the Company or for the amalgamation of the Company with any other entity;

**14.1.4** sanction any scheme or proposal for the sale or exchange of the Notes for, or the conversion of the Notes into, cash or shares, stock, debentures, debenture stock or other obligations or securities of the Company or any other company formed or to be formed and for the appointment of some person with power on behalf of the Noteholders to execute an instrument of transfer of the Notes held by them in favour of the person to or with whom the Notes are to be sold or exchanged (as the case may be);

**14.1.5** assent to any modification or abrogation of the provisions contained in this Instrument, which shall be proposed by the Company and authorise the Company to execute an instrument supplemental to the Instrument embodying any such modification or abrogation;

**14.1.6** authorise any person to execute any deed(s) or document(s) and do all such acts and things as may be necessary to give effect to a Noteholder Resolution;

**14.1.7** give any authority or sanction which under the provisions of this Instrument is required to be given by Noteholder Resolution;

**14.1.8** waive any rights of a Noteholder in respect of the Notes; and

**14.1.9** appoint any persons (whether Noteholders or not) as a committee or committees to represent the interests of the Noteholders for any purpose

and to confer upon such committee or committees any powers or discretions which the Noteholders could themselves exercise by Noteholder Resolution,

and any such Noteholder Resolution shall be binding on all of the Noteholders.

**14.2** No resolution shall be effective which would increase any obligation of the Company under the Instrument or postpone the due date for payment of any principal or interest in respect of any Note without the consent of the Company.

**15. NOTEHOLDER RESOLUTION BINDING ON ALL NOTEHOLDERS**

A Noteholder Resolution passed at a meeting of Noteholders duly convened and held in accordance with the provisions of this Schedule shall be binding upon all the Noteholders whether present or not present at such meeting and each of the Noteholders shall be bound to give effect to such Noteholder Resolution accordingly. The passing of any such resolution shall be conclusive evidence that the circumstances justify the passing of such Noteholder Resolution.

**16. RESOLUTIONS IN WRITING**

A resolution in writing signed by the Majority Noteholders who are for the time being entitled to receive notice of meetings in accordance with the provisions contained in the Instrument shall for all purposes be as valid and effectual as a Noteholder Resolution passed at a meeting of the Noteholders and shall be binding on all Noteholders. Such resolution in writing may be contained in one document or in several documents in like form each signed by one or more of the Noteholders.

**17. MINUTES OF MEETINGS**

Minutes of all resolutions and proceedings at every meeting of the Noteholders shall be made and duly entered in books to be from time to time provided for that purpose by the Company. Any minutes which purport to be signed by the Chair of the meeting at which such resolutions were passed or proceedings held or by the Chair of the next succeeding meeting of the Noteholders shall be conclusive evidence of the matters contained in such minutes. Unless the contrary is proved, every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly convened and held and all resolutions passed at such meetings to have been duly passed.

**18. CORPORATE REPRESENTATIVES**

Any corporation which is a Noteholder may by resolution of its directors or other governing body authorise any person to act as its representative at any meeting of Noteholders and such person shall, if so authorised, be entitled to exercise the same powers on behalf of the corporation which they represent as that corporation could exercise if it were an individual Noteholder present in person at the meeting.

**IN WITNESS** whereof the Company has duly executed this Instrument as a deed on the day and year first written above.

**EXECUTED and DELIVERED** )  
as a **DEED** by )  
**AQUILA LIMITED** )  
acting by: )  
.....  
Director

in the presence of:

Witness

Signature: .....

Name: .....

Address: .....

.....

.....

Occupation: .....