

DATED 18 December 2018

(1) RAGLAN HOUSE HOLDINGS LIMITED

and

(2) HILLCO INVESTMENTS (UK) LIMITED

FACILITY AGREEMENT

 SHAKESPEARE *M&A*

Ref: 373365.58

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THIS AGREEMENT dated 18 December 2018 is made

PARTIES

- (1) **RAGLAN HOUSE HOLDINGS LIMITED** incorporated and registered in England and Wales with company number 11639220 whose registered office is at No. 1 Colmore Square, Birmingham B4 6AA ("the Borrower").

- (2) **HILLCO INVESTMENTS (UK) LIMITED** incorporated and registered in England and Wales with company number 06459441 whose registered office is at 49 Mill Street, Bedford MK40 3EU ("the Lender").

BACKGROUND

- A The Borrower proposes to acquire the entire issued share capital of Freshwater UK plc (a company registered in England and Wales with number 04059741) ("Freshwater") ("Acquisition").

- B In respect of the Acquisition, the Lender has agreed to make available to the Borrower the Facility to fund part of the Acquisition (as defined below) on the terms and conditions set out in this Agreement.

IT IS AGREED AS FOLLOWS:

1 Definitions and interpretation

1.1 Definitions

In this Agreement, unless otherwise provided:

Business Day	means a day, other than a Saturday, Sunday or public holiday, on which banks are open for business in London;
Commitment Period	means the period commencing on the date of this Agreement to and including the Longstop Date;
Drawdown	means a utilisation of the Facility;
Drawdown Date	means the date of Drawdown as specified in the applicable Drawdown Notice;
Drawdown Notice	means a notice substantially in the form set out in Schedule 1 (Form of Drawdown Notice);
Escrow Account	the client account of SHMA;
Event of Default	has the meaning given to it in Clause 14 (Events of Default);

Facility	means the Sterling term loan facility (whether drawn or undrawn) made available under this Agreement in an amount equal to the Initial Commitment as reduced (pursuant to clause 3) or repaid from time to time;
Facility Period	means the period from the date of this Agreement until all the obligations of the Borrower under this Agreement have been unconditionally and irrevocably discharged to the reasonable satisfaction of the Lender;
Facility Reduction	has the meaning given in clause 3;
Final Repayment Date	means the date 5 years following the date of this Agreement;
Financial Indebtedness	means indebtedness arising from: <ul style="list-style-type: none"> (a) borrowing (including overdrafts) and amounts raised that have the commercial effect of borrowing; (b) any issued bonds, notes, debentures or similar instruments; (c) any liabilities under finance or capital leases; (d) any sold or discounted receivables; (e) counter-indemnity obligations in relation to guarantees, indemnities, standby or documentary letters of credit and similar instruments; and (f) the amount of any liability under a guarantee or indemnity for any of the items listed in paragraphs (a) to (f) above;
Freshwater Shares	has the meaning set out in the Offer;
Initial Commitment	means £860,000 minus any amount reduced or cancelled in accordance with this Agreement;
Interest Payment Date	means the last Business Day of each month commencing on the last Business Day of the month being 6 months after the date of this Agreement and ending on the Final Repayment Date;
Interest Rate	means 6% per annum;
Irrevocable Instruction	means the irrevocable instruction to SHMA in the form set out in Schedule 2;

Irrevocable Undertakings	means the irrevocable undertakings from certain holders of Freshwater Shares to accept the Offer as set out in paragraph 8 of Appendix V of the Offer Document;
Loan	means a loan made under this Agreement to the extent not repaid;
Longstop Date	means 15 days after the expiry of any notice in writing by the Borrower that the Offer is closed where such notice is given pursuant to paragraph 1.5 of Part B of Appendix 1 to the Offer;
Material Adverse Effect	means a material adverse effect on: <ul style="list-style-type: none"> (a) the business, operations, property or condition (financial or otherwise) of the Borrower and its Subsidiaries taken together; (b) the Borrower's ability to comply with any of its payment obligations under this Agreement ; or (c) the validity or enforceability of this Agreement or the rights or remedies of the Lender under this Agreement;
Offer	means the recommended offer for Freshwater by Borrower announced on or around the date of this Agreement and shall include (where the context requires) all Parts, Appendices and other documents attached to or referred to in the Offer;
Party	means a party to this Agreement;
Permitted Disposal	means any disposal (including by way of sale, transfer, licence or lease) on arm's length terms: <ul style="list-style-type: none"> (a) of cash or stock in the ordinary course of trading; (b) of assets (except for real property, shares and investments and intellectual property) in exchange for replacement assets of the equivalent or better type, value and quality; (c) arising in connection with any Permitted Security; or (d) that has been given prior written approval by the Lender;
Permitted Security	means: <ul style="list-style-type: none"> (a) any lien arising in the ordinary course of trading and

	by operation of law;
	(b) any Security Interest arising under retention of title, hire purchase or similar arrangements entered into in the ordinary course of business and on the supplier's usual terms and not because the Borrower or any Subsidiary of the Borrower has breached those terms;
	(c) any Security Interest that has been given prior written approval by the Lender; and
	(d) the Security Interest which have been granted by any Subsidiary and listed at Companies House prior to the date of this Agreement;
Potential Event of Default	means an event that with the giving of notice, lapse of time or other applicable condition would be an Event of Default;
Prepayment Notice	has the meaning given to it in Clause 6.2.1;
Security Interest	means any charge, pledge, mortgage, lien or other security interest securing any obligations of any person or any other arrangement of any type whatsoever having the effect of conferring security or a similar effect;
SHMA	Shakespeare Martineau LLP;
Sterling	and £ mean the lawful currency of the United Kingdom;
Subsidiary	means a subsidiary as defined in section 1159 of the Companies Act 2006; and
Unlisted Share Alternative	has the meaning given in the Offer.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa;
- (b) including means including without limitation;
- (c) where an act is required to be performed promptly, it must be performed as soon as reasonably possible from the moment when the act could reasonably have been performed, having regard to all of the circumstances;
- (d) a time of day is a reference to London time;
- (e) a reference to any Party shall be construed as including, where relevant, successors in title to that Party, and that Party's permitted assigns and transferees (if any);

- (f) a reference to a person includes individuals, unincorporated bodies, government entities, companies and corporations;
- (g) a reference to a Clause or a Schedule is to a clause of, or schedule to, this Agreement;
- (h) a reference to this Agreement or any other agreement is a reference to that document as amended, novated, supplemented, restated or replaced from time to time in accordance with its terms; and
- (i) references to legislation include any modification or re-enactment of such legislation or any part of it.

1.2.2 A reference to this Agreement includes its Schedules, which form part of this Agreement.

1.2.3 The table of contents and any Clause title, Schedule title or other headings in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement.

1.2.4 An Event of Default is 'continuing' if it has not been waived by the Lender and a Potential Event of Default is 'continuing' if it has not been remedied by the Borrower or waived by the Lender.

1.3 Third party rights

1.3.1 Except as expressly provided for in this Agreement, a person who is not a Party shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of this Agreement.

1.3.2 The rights of the Borrower under this Agreement may be enforced by Cattaneo Corporate Finance Solutions Limited ("**Cattaneo**") but, for the avoidance of doubt, nothing in this Agreement shall create any obligation against Cattaneo.

1.3.3 Subject to clause 1.3.4, the Parties may terminate or rescind this Agreement, or agree to any variation, waiver or settlement in connection with it, without the consent of any third party, whether or not it extinguishes or alters any entitlement they may have to enforce any of the provisions of this Agreement.

1.3.4 This Agreement may not be varied, waived or settled without the prior written consent of Cattaneo.

2 The Facility

2.1 Subject to the terms of this Agreement, the Lender makes the Facility available to the Borrower. On the date of this Agreement the Lender shall deposit the Initial Commitment into the Escrow Account to be held subject to the Irrevocable Instruction.

2.2 The Borrower shall use the Facility for the purposes of funding the Acquisition and for no other purpose unless both the Lender and Cattaneo have given their prior written consent to such purpose.

2.3 The Lender is under no obligation to investigate how any amount borrowed under this Agreement is used.

3 Reduction in Facility

- 3.1 Subject to the prior written consent of Cattaneo (which may be given by email), the amount of the Initial Commitment shall be reduced by a sum equal to £x ("Facility Reduction"), where:

$$x = A \times 0.12; \text{ and}$$

A is the number of Freshwater Shares for which holders have accepted the Unlisted Share Alternative but excluding any Freshwater Shares which are the subject of an Irrevocable Undertaking.

- 3.2 Subject to the prior written consent of Cattaneo (which may be given by email), the Lender may from time to time once the Offer has become or has been declared unconditional in all respects require that a sum equal to the Facility Reduction (to the extent not previously returned) is returned to the Lender from the Escrow Account and the amount of the Facility shall be reduced by such amount with effect from the date it is returned to the Lender from the Escrow Account.

4 Mechanics of drawing a Loan

- 4.1 The Borrower may make a drawing under the Facility by delivering a duly completed Drawdown Notice to the Lender.
- 4.2 The Drawdown Notice must be substantially in the form set out in Schedule 1 (Drawdown Notice) and include:
- 4.2.1 the amount of the Loan; and
 - 4.2.2 the proposed Drawdown Date.
- 4.3 No Loan shall exceed the amount of the undrawn Facility.
- 4.4 The proposed Drawdown Date must be a Business Day within the Commitment Period.
- 4.5 Once submitted, a Drawdown Notice may not be withdrawn.

5 Interest

- 5.1 Interest on the principal amount of the Facility shall accrue daily at the Interest Rate on the basis of a 365-day year and for the actual number of days elapsed. Interest shall be capitalised each month on the last Business Day of each month.
- 5.2 The Borrower must pay accrued interest to the Lender on each Interest Payment Date.

6 Repayment and prepayment

6.1 Repayment

- 6.1.1 The Borrower must repay the capital of the Facility in monthly instalments on the last Business Day of each month commencing on the last Business Day of the month being 6 months after the date of this Agreement and ending on the Final Repayment Date. The amount of each monthly instalment shall be calculated in accordance with clause 6.1.2
- 6.1.2 The amount of each repayment instalment shall be an amount equal to £R; where

$R = C \div M$; and

C is the total amount of capital outstanding immediately prior to the repayment instalment (including any capitalised interest); and

M is the number of months between the date of the relevant capital repayment and the Final Repayment Date.

6.2 Prepayment

- 6.2.1 The Borrower may prepay the whole or part of any Loan or any part of the undrawn facility, in accordance with this Clause 6.2 (Prepayment), without penalty by giving written notice (a **Prepayment Notice**) to the Lender of its intention to do so.
- 6.2.2 The Prepayment Notice must specify the intended date and amount of the prepayment.
- 6.2.3 The intended date of the prepayment must be an Interest Payment Date occurring after the Commitment Period.
- 6.2.4 The amount prepaid must be in a minimum amount of the lower of:
- (a) £5,000; and
 - (b) the aggregate of all amounts outstanding under the Loans.
- 6.2.5 Once submitted, a Prepayment Notice cannot be withdrawn.
- 6.2.6 Any prepayment must be made together with accrued interest on the amount prepaid.

6.3 Reborrowing

Any sums repaid, prepaid or cancelled under this Agreement may not be reborrowed or reinstated.

7 Taxes

7.1 Tax gross up

- 7.1.1 Subject to Clause 7.1.2, all payments by the Borrower under this Agreement must be made free and clear of any deduction or withholding of any kind for or on account of tax.
- 7.1.2 If the Borrower is required by law to make any deduction or withholding from any such payment for or on account of tax the sum due from it in respect of such payment must be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Lender receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received had no deduction or withholding been made or been required to be made.
- 7.1.3 The Borrower shall pay the amount deducted or withheld to the relevant tax or other authorities within the time allowed for such payment under applicable law and shall deliver to the Lender, within 30 (thirty) days of making such payment, an original receipt or other evidence issued by the relevant authority showing that payment has been made in full.

7.2 Tax indemnity

As a separate obligation, if the Lender is required to make any payment of or on account of tax (other than tax on its overall net income) on or calculated by reference to the Facility or by reference to any sum received or receivable under this Agreement by the Lender or any liability in respect of any such payment is asserted, imposed, levied or assessed, the Borrower must, upon demand of the Lender, promptly indemnify the Lender against such payment or liability, together with any interest, penalties and expenses payable or incurred in connection therewith.

8 Fees

The Borrower must pay to the Lender a fee in the amount of £8,600 plus VAT on the date of this Agreement.

9 Costs, expenses and indemnity

9.1 The Borrower must, within 5 Business Days of demand by the Lender, pay to the Lender all reasonable costs and expenses (including legal fees) together with VAT on such amounts incurred by the Lender arising at any time in connection with:

9.1.1 the negotiation, preparation, execution or perfection of this Agreement; and/or

9.1.2 responding to, considering or implementing any request for a consent, amendment or waiver to this Agreement.

9.2 The Borrower must, within 5 Business Days of demand by the Lender, pay to the Lender on a full indemnity basis all costs, losses and liabilities (including legal fees) together with VAT on such amounts incurred by or on behalf of the Lender arising at any time as a result of or in connection with:

9.2.1 the occurrence of an Event of Default;

9.2.2 the preservation and/or enforcement of any of the rights of the Lender under this Agreement; or

9.2.3 the Borrower failing to prepay a Loan in accordance with a Prepayment Notice.

10 Representations and warranties

10.1 The Borrower makes the following representations and warranties to and for the benefit of the Lender on the date of this Agreement and acknowledges that the Lender has entered into this Agreement in reliance on such representations and warranties:

10.1.1 **Status:** it and each of its Subsidiaries is a limited company duly incorporated and validly existing under the laws of England and Wales;

10.1.2 **Corporate power:** it and each of its Subsidiaries has the corporate power to carry on its business as it is now being conducted and own its assets;

10.1.3 **Binding obligations:** its obligations under this Agreement are legal, valid, binding and enforceable;

10.1.4 **No conflict:** the entry into, delivery and performance by it of this Agreement, will not involve or result in a contravention of:

- (a) its constitutional documents;
 - (b) any law or regulation applicable to it; or
 - (c) any contractual or other obligation or restriction that is binding on it or any of its assets;
- 10.1.5 **Corporate authority:** it has taken the necessary corporate action to allow it to enter into, deliver and perform its obligations under this Agreement and it does not exceed any limit on its powers in so doing;
- 10.1.6 **Authorisations:** all authorisations, consents and licences necessary to enable it to enter into, deliver and perform its obligations under this Agreement and to enable it and each of its Subsidiaries to conduct its business in its current form have been obtained;
- 10.1.7 **No default:** other than as disclosed under Clause 11.2 (Notification of default) no Event of Default or Potential Event of Default has occurred and is continuing or will occur on the making of a Loan;
- 10.1.8 **Taxes:** it has and each of its Subsidiaries has paid or discharged all taxes due and payable by it on or before the due date except those which are being contested in good faith by appropriate proceedings;
- 10.1.9 **Ranking:** its payment obligations under this Agreement rank at least *pari passu* with all its other present and future unsecured and unsubordinated payment obligations, apart from payment obligations mandatorily preferred by law;
- 10.1.10 **Accuracy of information:**
- (a) all written information provided by it or on its behalf to the Lender in relation to it or any of its Subsidiaries, its or any of its Subsidiaries' assets, business or affairs or this Agreement was true, complete and accurate in all material respects as at the date it was provided; and
 - (b) it has not withheld from the Lender any information which makes the information provided to the Lender materially misleading, incomplete, inaccurate or untrue as at the date it was provided;
- 10.1.11 **Financial statements:**
- (a) its most recent audited consolidated financial statements which it has provided to the Lender under Clause 11.1.1 were prepared in accordance with generally accepted accounting principles in England including international accounting standards within the meaning of IAS Regulation 1606/2002, consistently applied and give a true and fair view of it and its Subsidiaries' financial condition for the period to which they relate; and
 - (b) there has been no material adverse change in its or any of its Subsidiaries' business or financial condition since the date of the most recent financial statements provided to the Lender under Clause 11.1 (Financial statements);
- 10.1.12 **No litigation:** it is not and none of its Subsidiaries is the subject of any actual, pending or threatened material litigation, arbitration or other court or arbitral proceedings which, if adversely determined, might reasonably be expected to have a Material Adverse Effect;
- 10.1.13 **No security:** No Security Interest subsists over any of its or any of its Subsidiaries' assets except for the Security Interests created by or pursuant to any Permitted

Security and no person holds an interest in any of its or any of its Subsidiaries' assets other than under a Permitted Security;

10.1.14 **Ownership of assets:** it and each of its Subsidiaries is the sole legal and beneficial owner of all of its present and future assets; and

10.1.15 **Insolvency:** no corporate action, legal proceedings or other procedures or steps have been taken against it or any of its Subsidiaries for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of it or of any or all of its assets or revenues.

10.2 Repetition

The representations contained in this Clause 10 (Representations and warranties) are deemed to be repeated by the Borrower by reference to the facts and circumstances then existing on:

10.2.1 the date of each Drawdown Notice;

10.2.2 each Drawdown Date; and

10.2.3 each Interest Payment Date.

11 Information undertakings

The undertakings in this Clause 11 (Information undertakings) remain in effect throughout the Facility Period.

11.1 Financial statements

The Borrower must deliver to the Lender:

11.1.1 as soon as the same become available but in any event within 180 days of its financial year end its audited consolidated financial statements for that financial year; and

11.1.2 as soon as the same become available but in any event within 30 days of each month end its consolidated unaudited monthly financial statements for that financial month.

11.2 Notification of default

The Borrower must, promptly on becoming aware of the same, notify the Lender of the occurrence of any Event of Default or Potential Event of Default together with the steps being taken to remedy it (if applicable).

11.3 Litigation

The Borrower must, promptly on becoming aware of the same, notify the Lender of any actual, pending or threatened material litigation, arbitration or other court or arbitral proceedings against it or any of its Subsidiaries which, if adversely determined, might reasonably be expected to have a Material Adverse Effect.

11.4 Further information

The Borrower must provide the Lender with any information relating to the financial condition, business, assets and affairs of it or any of its Subsidiaries as the Lender may require (acting reasonably/promptly) on demand.

12 Positive undertakings

The undertakings in this Clause 12 (Positive undertakings) remain in effect throughout the Facility Period.

12.1 Purpose

The Borrower must only use the Loans for the purpose specified in Clause 2.2.

12.2 Authorisations

The Borrower must ensure that it has all authorisations, consents and licences necessary to enable it to enter into, deliver and perform its obligations under this Agreement and to enable it and each of its Subsidiaries to conduct its business in its current form.

12.3 Compliance with laws

The Borrower must and must ensure that each of its Subsidiaries will comply in all material respects with all laws and regulations applicable to them where failure to comply may adversely affect their business and/or have a Material Adverse Effect.

12.4 Payment of taxes

The Borrower must and must ensure that each of its Subsidiaries will pay or discharge all taxes due and payable by them on or before the due date except those which are being contested in good faith by appropriate proceedings.

12.5 Insurance

The Borrower must insure all of its assets of an insurable nature, with reputable insurers, in sums at least equal to the replacement value of those assets, against such risks and on such terms that are usual for a prudent company carrying on the same or equivalent business as the Borrower.

13 Negative undertakings

The undertakings in this Clause 13 (Negative undertakings) remain in effect throughout the Facility Period.

13.1 Negative pledge

The Borrower must not and must ensure that each of its Subsidiaries will not create or permit to subsist any Security Interest other than Permitted Security over any of its respective assets (whether present or future).

13.2 Disposals

The Borrower must not and must ensure that each of its Subsidiaries will not either in a single transaction or in a series of transactions sell, transfer, licence, lease, grant any option in

respect of or otherwise dispose of all or any part of its respective assets or agree or attempt to do so unless such disposal is a Permitted Disposal.

13.3 Financial Indebtedness

The Borrower must not and must ensure that each of its Subsidiaries will not incur or permit to subsist any Financial Indebtedness except for:

- 13.3.1 Financial Indebtedness under this Agreement;
- 13.3.2 Financial Indebtedness of the Borrower or any of its Subsidiaries, in each case, in an amount not exceeding the amounts available to it at the date of this Agreement; and
- 13.3.3 Financial Indebtedness that has the prior approval of the Lender in writing.

13.4 Share capital

The Borrower must not without the prior written consent of the Lender:

- 13.4.1 purchase, reduce, cancel, repay or redeem any of its share capital or any option over its share capital;
- 13.4.2 issue any shares or grant any right to acquire or be issued any shares;
- 13.4.3 alter the nature of, or any rights attaching to, any of its shares; or
- 13.4.4 issue any voting capital.

13.5 Material Changes to the Business

The Borrower must not without the prior written consent of the Lender:

- 13.5.1 change the nature of the business carried on by the Borrower as at the date of this Agreement;
- 13.5.2 enter into any material contract with a customer which would represent more than 5% of the budgeted annual sales or with a supplier which would represent more than 5% of the budgeted annual expenditure (excluding salaries), for the year in question;
- 13.5.3 appoint any senior employee (being an employee for whom the annual salary exceeds £50,000; or
- 13.5.4 acquire any new freehold property or enter into any lease over any property.

14 Events of Default

14.1 The occurrence of any of the following is an Event of Default:

- 14.1.1 **Non-payment:** the Borrower fails to pay any amount payable by it under this Agreement on the date it falls due;
- 14.1.2 The Borrower or any of the Subsidiaries dismisses David Matthew Rustin Howell as chairman and/or director of the Borrower and/or any Subsidiary.

- 14.1.3 **Breach of obligations:** the Borrower fails to perform promptly any of its obligations under this Agreement (other than the obligations referred to in Clauses 14.1.1 and 14.1.2) unless in the Lender's opinion such failure to perform can be remedied and is remedied to the satisfaction of the Lender within 30 days of the Borrower first becoming aware of the failure to so perform;
- 14.1.4 **Misrepresentation:** any representation or warranty contained in this Agreement or in any document or instrument delivered under or in connection with this Agreement, is incorrect or misleading in any material respect when made or deemed to be made;
- 14.1.5 **Change of control:** more than 50% of the voting rights of shareholders in the Borrower become vested in persons who are not shareholders in Freshwater at the date of this Agreement.
- 14.1.6 **Unlawfulness, invalidity:**
- (a) it is or becomes unlawful for the Borrower to perform any of its obligations under this Agreement;
 - (b) it is or becomes unlawful for the Lender to exercise any of its rights under this Agreement;
 - (c) this Agreement becomes invalid or unenforceable or ceases to be in full force and effect for any other reason; or
 - (d) the Borrower does or causes or permits to be done anything which evidences an intention to contest or repudiate this Agreement wholly or in part;
- 14.1.7 **Transfer of assets:** the Borrower or any Subsidiary of the Borrower in any way disposes of, or agrees or threatens to dispose of, all or a material part of its assets or of any interest in its assets;
- 14.1.8 **Change or suspension of business:** the Borrower or any Subsidiary of the Borrower changes or threatens to change the nature or scope of its business, or suspends or threatens to suspend all or a substantial part of its business operations, or commences any business other than that being carried on by it as at the date of this Agreement;
- 14.1.9 **Material Adverse Effect:** any event occurs which has a Material Adverse Effect;
- 14.1.10 **Enforcement of security:** any step is taken to enforce any security over the undertaking, property, revenue or assets of the Borrower or any Subsidiary of the Borrower;
- 14.1.11 **Composition:** any step is taken by the Borrower or its directors (or any agent of the Borrower) with a view to resolving to enter into, commence negotiations in respect of, make any requisite application to court in respect of, or the Borrower or its directors convene meetings for the approval of, any:
- (a) composition;
 - (b) compromise;
 - (c) moratorium (including a moratorium statutorily obtained, whether or not as a precursor to a voluntary arrangement under the Insolvency Act 1986);
 - (d) scheme of arrangement with its creditors or any of them, whether or not under the Insolvency Act 1986, the Companies Act 2006 or otherwise;
 - (e) assignment with or for the benefit of creditors; or

- (f) re-scheduling of all or any part of the liabilities of the Borrower or any Subsidiary of the Borrower;

14.1.12 **Winding up:** any of the following occur:

- (a) the Borrower or its directors (or any agent of the Borrower) take any steps under the Insolvency Act 1986 and/or Insolvency (England and Wales) Rules 2016, SI 2016/1024 to wind up the Borrower voluntarily or to apply to the court for a winding-up order;
- (b) a petition is presented to wind up the Borrower other than a petition which the Lender is satisfied is capable of being dismissed by the court and is dismissed by the court, within 20 Business Days of the petition being made;
- (c) a provisional liquidator is appointed to the Borrower or the Borrower goes into liquidation within the meaning of that term under section 247 of the Insolvency Act 1986;
- (d) the Borrower or its directors (or any agent of the Borrower) or any Subsidiary of the Borrower request or suffer the appointment of a Law of Property Act 1925 receiver, court appointed receiver or other receiver/manager or similar officer over or in relation to the whole of its undertaking, property, revenue or assets or any part thereof, or any person holding security over all or any of its undertaking, property, revenue or assets takes possession of them or any part of them or any distress is executed or levied over all or any of its undertaking, property, revenue or assets;
- (e) the Borrower or its directors (or any agent of the Borrower) resolve to appoint an administrator of the Borrower or any Subsidiary of the Borrower or to apply to court for an administration order in respect of it or any Subsidiary of the Borrower, or an application for an administration order in respect of it or any Subsidiary of the Borrower is made or any steps pursuant to the Insolvency Act 1986, Schedule B1 and/or Insolvency (England and Wales) Rules 2016, SI 2016/1024 are taken to appoint an administrator to it or any Subsidiary of the Borrower out of court, or it or any Subsidiary of the Borrower enters administration;
- (f) the Borrower or any Subsidiary of the Borrower, is dissolved, or is removed from the Register of Companies, or ceases to exist (whether or not capable of reinstatement or reconstitution) or the directors or agents of the Borrower or any Subsidiary of the Borrower apply for the relevant company to be struck-off the Register of Companies or cause for the relevant company to be struck-off the Register of Companies; or

14.1.13 **Insolvency:** the Borrower or any Subsidiary of the Borrower is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (ignoring the requirement in that section that any fact or matter 'is proved to the satisfaction of the court') or suspends or threatens to suspend making payments with respect to all or any class of its debts; or

14.1.14 **Analogous process or proceedings:** the Borrower or any Subsidiary of the Borrower is or becomes subject to, takes or has taken against it or in relation to it, or against any or all of its undertaking, property, revenue, or assets, any equivalent analogous, corresponding, or similar finding, step, process or proceeding to those in this Clause 14 (Events of Default) in any jurisdiction, whether or not any finding, step, process or proceeding had been taken against it or in relation to it, or any or all of its undertaking, property, revenue, or assets in England and Wales; or

14.1.15 **Lapse of Offer:** the Offer lapses,

14.2 Consequences

If an Event of Default occurs or is continuing at any time after the Longstop Date, the Lender may, by notice to the Borrower, declare that:

- 14.2.1 the Commitment (if any) is cancelled (in which case the Commitment shall be immediately cancelled);
- 14.2.2 the Loans, or part of the Loans, are payable on demand (in which case those amounts shall be immediately payable on demand);
- 14.2.3 the Loans, or part of the Loans, and any other amount due or becoming due to the Lender is immediately due and payable (in which case those amounts shall be immediately due and payable); and/or
- 14.2.4 it intends to exercise any or all of its rights, remedies, powers or discretions under this Agreement (in which case it may exercise any such rights).

For the avoidance of doubt, the Lender may not make any of the declarations set out in clauses 14.2.1 to 14.2.4 (inclusive) at any time prior to the Longstop Date.

15 Payments

- 15.1 All sums payable by the Borrower under this Agreement must be paid in Sterling in full without any set-off or counterclaim and in cleared funds no later than 11 am on the day in question to such account as the Lender may have specified for this purpose.
- 15.2 Where the day on or by which any payment is to be made is not a Business Day that payment must be made on or by the following Business Day.

16 Currency indemnity

- 16.1 The Borrower must, as an independent obligation, indemnify the Lender against any loss or liability which the Lender incurs as a consequence of:
 - 16.1.1 the Lender receiving an amount in respect of the Borrower's liability under this Agreement; or
 - 16.1.2 that liability being converted into a claim, proof, judgment or order,
in a currency other than Sterling.
- 16.2 Unless otherwise required by law, the Borrower waives any right it may have in any jurisdiction to pay any amount under this Agreement in a currency other than Sterling.

17 Set-off

The Lender may set off any matured amount which the Borrower owes it under this Agreement against any matured amount it owes the Borrower.

18 Information

The Lender may from time to time seek from any other creditor or provider of finance to the Borrower such information about the Borrower and its affairs as the Lender may think fit and the Borrower directs such third party to provide such information to the Lender.

19 Transfers

19.1 Right of Lender to transfer

The Lender is entitled at any time to assign its rights or otherwise transfer all or any part of its rights or obligations under this Agreement with the prior consent of the Borrower, such consent not to be unreasonably withheld.

19.2 No right of Borrower to transfer

The Borrower is not entitled to assign its rights or otherwise transfer all or any part of its rights or obligations under this Agreement.

19.3 Disclosure

The Borrower irrevocably authorises the Lender to disclose any information concerning the Borrower or this Agreement to:

19.3.1 any prospective assignee or transferee referred to in Clause 19.1 (Right of Lender to transfer) and any other person considered by the Lender to be concerned in the prospective assignment or transfer; and

19.3.2 any person who, as part of the arrangements made in connection with any transaction referred to in Clause 19.1 (Right of Lender to transfer), requires such information after the transaction has been effected.

20 Notices

20.1 Unless expressly provided to the contrary in this agreement, any notice or other communication given by a party under this Agreement must:

20.1.1 be in writing and in English; and

20.1.2 be signed by or on behalf of the party giving it.

20.2 Notices will be sent to:

20.2.1 Borrower-Attention: John Haydn Evans at: Raglan House Holdings Limited, Raglan House, Malthouse Avenue, Cardiff Gate Business Park, Cardiff CF23 8BA, copy Adam McGiveron at Shakespeare Martineau LLP, No 1 Colmore Square, Birmingham B4 6AA; and

20.2.2 Lender-Attention: David Matthew Rustin Howell at Hillco Investments (UK) Limited, 49 Mill Street, Bedford, MK40 3EU.

20.3 A Party may change any of its details given in Clause 20.2 by giving not less than 5 Business Days' notice to the other Party.

20.4 Notices may be given and will be deemed received:

20.4.1 by hand: on receipt of a signature at the time of delivery; and

20.4.2 by pre-paid first class recorded signed for post: at 9.00 am on the 2nd Business Day after posting.

20.5 This Clause 20 (Notices) does not apply to any notice given in legal proceedings, arbitration or other dispute resolution proceedings.

21 Amendments

No amendment, waiver or variation of any of the terms of this Agreement will be valid or effective unless made in writing and signed by or on behalf of the Parties.

22 Remedies and waivers

22.1 No failure, delay or omission by the Lender in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.

22.2 No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.

22.3 The Lender's rights, powers and remedies under this Agreement are cumulative and they do not exclude any rights, powers or remedies that arise by law.

23 Partial invalidity

23.1 If any provision of this Agreement (or part of any provision of this Agreement) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement (or other part of that provision of this Agreement) shall not be affected.

23.2 If any provision of this Agreement (or part of any provision of this Agreement) is or becomes illegal, invalid or unenforceable but would be legal, valid or enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable.

24 Counterparts

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

24.2 Each Party may evidence their signature of this Agreement by emailing a signed signature page of this Agreement in PDF format together with the final version of this Agreement in PDF or Word format, which shall constitute an original signed counterpart of this Agreement. Each Party adopting this method of signing will, following circulation by email, provide the original, hard copy signed signature page to the other Party as soon as reasonably practicable.

25 Governing law and jurisdiction

25.1 This Agreement and any dispute or claim arising out of, or in connection with it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

25.2 Subject to Clause 25.3, the Parties irrevocably agree, for the sole benefit of the Lender, that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

25.3 Notwithstanding Clause 25.2, the Parties irrevocably agree that the Lender shall have the right to take, and shall not be prevented from taking, proceedings against the Borrower to settle any dispute or claim arising out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims) in any other court of competent jurisdiction and that the Lender may take such proceedings in any number of jurisdictions, whether concurrently or not, to the extent permitted by law.

AGREED by the Parties on the date set out at the head of this Agreement.

**SCHEDULE 1
FORM OF DRAWDOWN NOTICE**

To: Hillco Investments (UK) Limited (the Lender)

From: Raglan House Holdings Limited (the Borrower)

Date: [•] 20[•]

Dear Sirs,

Facility agreement between the Borrower and the Lender dated [•] 2018 (the Facility Agreement)

Terms defined and references construed in the Facility Agreement have the same meaning and construction in this notice.

We request a Loan to be drawn down under the Facility Agreement as follows:

Amount of Loan: £[•]

Drawdown Date: [•]

Purpose of Loan: [•]

Please pay the Loan into the following account:

Bank: [•]

Account name: [•]

Account number: [•]

Sort code: [•]

EXECUTED as a DEED

For and on behalf of

RAGLAN HOUSE HOLDINGS LIMITED

**SCHEDULE 2
FORM OF IRREVOCABLE INSTRUCTION**

[Hillco Headed Notepaper]

FAO Adam McGiveron
Shakespeare Martineau LLP
No 1 Colmore Square
Birmingham
B4 6AA

[Date]

Dear sirs

Escrow Account – Irrevocable Instruction

We have today deposited the sum of £860,000 ("**Escrow Sum**") in your client account in relation to a facility agreement entered into on or around the date of this letter between Raglan House Holdings Ltd ("**Raglan**") and Hillco Investments (UK) Ltd ("**Hillco**") ("**Facility**").

This letter is our instruction to you in relation to the Escrow Sum. The instruction contained in this letter is irrevocable and may not be amended or varied without the prior written consent of Cattaneo Corporate Finance Limited ("**Cattaneo**").

You are instructed as follows:

1. No part of the Escrow Sum shall be paid to Raglan or Hillco or elsewhere without the prior consent of Cattaneo. You may accept an email from any person from Cattaneo in satisfaction of this requirement.
2. You are instructed to transfer any part of the Escrow Sum held by you from time to time in accordance with my instruction (provided that such instructions have been confirmed by Cattaneo in accordance with paragraph 1).
3. You shall be entitled to rely on any written instruction (including email) which reasonably appears to you to be authentic and you shall not be required to investigate further the authenticity of any instruction or confirmation.
4. You shall be required credit any interest earned on the Escrow Sum in accordance with your firm's usual policies.

This instruction shall be governed by English law.

Yours faithfully

**For and on behalf of
Hillco Investments (UK) Limited**

EXECUTION PAGE

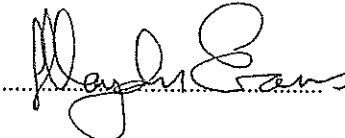
THE BORROWER

EXECUTED as a DEED

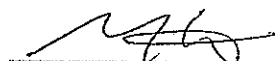
for and on behalf of

RAGLAN HOUSE HOLDINGS LIMITED

in the presence of:

} 

Witness signature



Name

MATTHEW WARILLOW

Address

RAGLAN HOUSE, MALTHOUSE

AVE, CARDIFF, CF23 8BA

Occupation

ACCOUNTANT

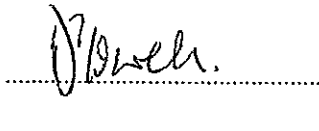
THE LENDER

EXECUTED as a DEED

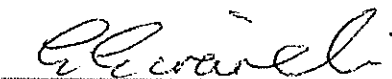
for and on behalf of

HILLCO INVESTMENTS (UK) LIMITED

in the presence of:

} 

Witness signature



Name

GIOVANNINA GIRARDI

Address

30 PUTNOE HEIGHTS

BEDFORD MK41 8EB

Occupation

OFFICE MANAGER.

