

DRAFT

FACILITY AGREEMENT

dated _____ 2022

between

SPC, LTD.
as Primary Borrower

MARKEL CATCO RE LTD.
as Co-Borrower

SOAFC I, INC., SOAFC II, INC. AND SOAFC III, LTD.
each acting as a Lender

and

SOAFC I, INC.
acting as the Facility Agent and the Security Agent

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THIS AGREEMENT, which is entered into as a deed, is dated _____ 2022 and made between:

- (1) **SPC, LTD.**, a company incorporated in Bermuda with company number 202100103 whose registered office is at Crawford House, 50 Cedar Avenue, Hamilton HM 11 Bermuda (the "**Primary Borrower**");
- (2) **MARKEL CATCO RE LTD.** (provisional liquidators appointed for restructuring purposes), a company incorporated in Bermuda with company number 50602 whose registered office is at Crawford House, 50 Cedar Avenue, Hamilton HM 11 Bermuda, in its own capacity and in respect of each Relevant Segregated Account (the "**Co-Borrower**");
- (3) **SOAFC I, INC.**, a company incorporated in Virginia, United States of America with company number 11240125 whose registered office is at 4521 Highwoods Pkwy, Glen Allen, VA, 23060 - 6148, USA (the "**Facility A Lender**");
- (4) **SOAFC II, INC.**, a company incorporated in Virginia, United States of America with company number [•] whose registered office is at 4521 Highwoods Pkwy, Glen Allen, VA, 23060 - 6148, USA (the "**Facility B Lender**");
- (5) **SOAFC III, LTD.**, a company incorporated in Bermuda with company number 202100120 whose registered office is at Crawford House, 50 Cedar Avenue, Hamilton HM 11 Bermuda (the "**Facility C Lender**");
- (6) **SOAFC I, INC.**, a company incorporated in Virginia, United States of America with company number 11240125 whose registered office is at 4521 Highwoods Pkwy, Glen Allen, VA, 23060 - 6148, USA, as agent of the other Finance Parties (the "**Facility Agent**"); and
- (7) **SOAFC I, INC.**, a company incorporated in Virginia, United States of America with company number 11240125 whose registered office is at 4521 Highwoods Pkwy, Glen Allen, VA, 23060 - 6148, USA, as security trustee for the Secured Parties (the "**Security Agent**").

IT IS AGREED as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Agreement:

"**2016 Loans**" means the Facility A 2016 Loan, the Facility B 2016 Loan and the Facility C 2016 Loan, details of which are set out in Schedule 1 (*Loans*).

"**2017 Loans**" means the Facility A 2017 Loan, the Facility B 2017 Loan and the Facility C 2017 Loan, details of which are set out in Schedule 1 (*Loans*).

"**2018 Loans**" means the Facility A 2018 Loan, the Facility B 2018 Loan and the Facility C 2018 Loan, details of which are set out in Schedule 1 (*Loans*).

"2019 Loans" means the Facility A 2019 Loan, the Facility B 2019 Loan and the Facility C 2019 Loan, details of which are set out in Schedule 1 (*Loans*).

"Accounts" means the General Account (Co-Borrower), the General Account (Primary Borrower), Aquilo Account (Co-Borrower) and any other account requested by an Obligor and approved by the Facility Agent in writing.

"Account Bank" means the Account Bank (Co-Borrower) or the Account Bank (Primary Borrower).

"Account Bank (Co-Borrower)" means HSBC Bank or any other account bank previously approved by the Facility Agent in writing.

"Account Bank (Primary Borrower)" means JP Morgan Chase & Co. or any other account bank previously approved by the Facility Agent in writing.

"Affiliate" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"Aquilo Cash" means the all of the cash held in the Trust Accounts (Aquilo) from time to time of the Co-Borrower (in respect of the relevant Segregated Accounts) set out under the heading '*Aquilo Trust Accounts*' in Schedule 3 (*Aquilo Segregated Accounts and Trust Agreements*).

"Aquilo Loans" means the Facility A Aquilo Loan, the Facility B Aquilo Loan and the Facility C Aquilo Loan, details of which are set out in Schedule 1 (*Loans*).

"Aquilo Account (Co-Borrower)" means the account held by the Co-Borrower with the Account Bank (Co-Borrower) with sort code [•] and account number [•] and includes any replacement of that Account.

"Authorisation" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"Availability Period" means the period from and including the date of this Agreement to and including the date falling 10 days after the date of this Agreement (or such later date as the Facility Agent may agree in writing).

"BMA" means the Bermuda Monetary Authority.

"Borrower" means the Primary Borrower and the Co-Borrower.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in New York, United States of America and Hamilton, Bermuda.

"Cash Sweep Amounts" means:

- (a) in respect of the Primary Borrower, all amounts received or recovered by the Primary Borrower from time to time (other than the proceeds of any Loan); or

- (b) in respect of the Co-Borrower:
 - (i) any amount of Co-Borrower Cash that is released from a Trust Account (Co-Borrower), in accordance with the terms of the applicable Trust Agreement (Co-Borrower); and
 - (ii) any amount of Aquilo Cash that is released from a Trust Account (Aquilo), in accordance with the terms of the applicable Trust Agreement (Aquilo) and Fronting Insurance Agreement.

"Cedant" means the reinsured party under a Retro Reinsurance Policy.

"Co-Borrower Cash" means all of the cash held in the Trust Accounts (Aquilo) and Trust Accounts (Co-Borrower) from time to time.

"Commitments" means:

- (a) in relation to Facility A, the Facility A Commitment;
- (b) in relation to Facility B, the Facility B Commitment; and
- (c) in relation to Facility C, the Facility C Commitment.

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

"Deposit Account Control Agreement" means the deposit account control agreements related to the General Account (Co-Borrower) and the Aquilo Account (Co-Borrower) entered into between the Account Bank, the Co-Borrower and the Security Agent on or around the date of this Agreement.

"Facilities" means each of Facility A, Facility B and Facility C and **"Facility"** means any of them, as the context requires.

"Facility A" means the term loan facility made available under this Agreement as described in Clause 2(a) (*The Facilities*).

"Facility A Commitment" means US\$[•], to the extent not cancelled.

"Facility B" means the term loan facility made available under this Agreement as described in Clause 2(b) (*The Facilities*).

"Facility B Commitment" means US\$[•], to the extent not cancelled.

"Facility C" means the term loan facility made available under this Agreement as described in Clause 2(c) (*The Facilities*).

"Facility C Commitment" means US\$[•], to the extent not cancelled.

"Finance Document" means:

- (a) this Agreement;

- (b) each Security Document; and
- (c) any other document or agreement that any Obligor and the Facility Agent designate as a "Finance Document".

"Finance Party" means each Lender, the Facility Agent and the Security Agent.

"Financial Indebtedness" means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold or discounted on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) which would, in accordance with GAAP, be treated as a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

"Fronting Insurance Agreement" means an agreement between the Co-Borrower and a fronting reinsurer with respect to the reinsurance policies that form the Aquilo Fund investment.

"GAAP" means generally accepted accounting principles in Bermuda, including US GAAP.

"General Account (Co-Borrower)" means the account held by the Co-Borrower with the Account Bank (Co-Borrower) with sort code [•] and account number [•] and includes any replacement of that Account.

"General Account (Primary Borrower)" means the account held by the Primary Borrower with the Account Bank (Primary Borrower) with sort code [•] and account number [•] and includes any replacement of that Account.

"Holding Company" means, in relation to a person, any other person in respect of which it is a Subsidiary.

"JPL Appointment Order" means the order dated 1 October 2021 issued by the Supreme Court of Bermuda evidencing the appointment of the JPLs.

"JPLs" means Simon Appell of AlixPartners LLP UK and John McKenna of Finance & Risk Services Ltd. acting as joint provisional liquidators, with limited powers for restructuring purposes, of the Private Fund, the Manager and the Reinsurer, appointed pursuant to the JPL Appointment Order.

"Legal Reservations" means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defences of set-off or counterclaim;
- (c) a charge expressed to be a fixed charge may only operate as a floating charge;
- (d) the limitation of the enforcement of the terms of leases of real property by laws of general application to those leases; and
- (e) similar principles, rights and remedies under the laws of any Relevant Jurisdiction.

"Limitation Act" means the Limitation Act 1984.

"Loan" means a loan made or to be made under Facility A, Facility B or, as the case may be, Facility C or the principal amount outstanding for the time being of that loan.

"Majority Lenders" means a Lender or Lenders whose Commitments aggregate more than 66 2/3 per cent. of the Total Commitments or, if the Total Commitments have been reduced to zero, aggregated more than 66 2/3 per cent. of the Total Commitments immediately prior to the reduction.

"Month" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and

- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month.

The above rules will only apply to the last Month of any period.

"Obligors" means:

- (a) the Borrower; and
- (b) each other person (if any) that the Obligors' Agent and the Facility Agent designate in writing is to be an "Obligor",

and **"Obligor"** means any one of them, as the context may require.

"Obligors' Agent" means the Primary Borrower, appointed to act on behalf of each Obligor in relation to the Finance Documents pursuant to Clause 1.5 (*Obligors' Agent*).

"Original Jurisdiction" means, in relation to an Obligor, the jurisdiction under whose laws that Obligor was initially incorporated.

"Party" means a party to this Agreement.

"Permitted Payment" means a payment of a dividend or other distribution on shares by an Obligor to its shareholder(s) which is:

- (a)
 - (i) expressly permitted under the Relationship and Economic Rights Agreement; and
 - (ii) which is made from:
 - (A) SPI 2016 Cash, once all of the 2016 Loans have been repaid by the Borrower in full;
 - (B) SPI 2017 Cash, once all of the 2017 Loans have been repaid by the Borrower in full;
 - (C) SPI 2018 Cash, once all of the 2018 Loans have been repaid by the Borrower in full;
 - (D) SPI 2019 Cash, once all of the 2019 Loans have been repaid by the Borrower in full; or
 - (E) Aquilo Cash once all of the Aquilo Loans have been repaid by the Borrower in full; or
- (b) to pay any fees, expenses or costs incurred in the run-off of the business in excess of the reserve created at the Reinsurer on or around the date of this Agreement and held in the General Account (Co-Borrower) and the Aquilo Account (Co-Borrower); or

(c) made with the prior written consent of the Facility Agent.

"Private Fund" means Markel CATCo Reinsurance Fund Ltd., an exempted company incorporated and existing under the laws of Bermuda with registration number 50599 and whose registered office is at Crawford House, 50 Cedar Avenue, Hamilton HM 11, Bermuda.

"Receiver" means a receiver or receiver and manager, of the whole or any part of the Security Assets.

"Reinsurer" means Markel CATCo Re Ltd., an exempted company incorporated and existing under the laws of Bermuda with the registration number 50602 and whose registered office is at Crawford House, 50 Cedar Avenue, Hamilton HM 11, Bermuda.

"Relationship and Economic Rights Agreement" means the agreement dated on or about the date of this Agreement between the Private Fund, the Primary Borrower and the Co-Borrower with respect to the purchase of shares in the Co-Borrower by the Primary Borrower.

"Relevant Jurisdiction" means, in relation to an Obligor:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where an asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.

"Relevant Segregated Account" means each segregated account of the Co-Borrower set out in Schedule 2 (*Segregated Accounts and Trust Agreements (Co-Borrower)*) and Schedule 3 (*Segregated Accounts and Trust Agreements (Aquila)*).

"Retro Reinsurance Policy" means a retro reinsurance policy issued by the Co-Borrower (in respect of a Relevant Segregated Account) which is collateralised by Co-Borrower Cash.

"SAC Act" means the Segregated Accounts Companies Act 2000 of Bermuda, as amended.

"Schemes" means the schemes of arrangement in accordance with section 99 of the Companies Act 1981 (Bermuda), as amended, pursuant to which the Loans advanced under this Agreement have been approved.

"Secured Liabilities" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Secured Party under each Finance Document.

"Secured Party" means a Finance Party, a Receiver or any Delegate.

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Security Assets" means all of the assets of any Obligor which from time to time are, or are expressed to be, the subject of the Transaction Security.

"Security Documents" means:

- (a) each of the security documents listed in paragraph (b) in Schedule 4 (*Conditions Precedent*);
- (b) any other document evidencing or creating Security over any asset to secure any obligation of any Obligor to a Secured Party under the Finance Documents, or that a Finance Party otherwise holds, as security for the payment and/or performance of the Secured Liabilities; and
- (c) any other document or agreement that any Obligor and the Security Agent designate in writing as a "Security Document".

"Security Property" means:

- (a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by an Obligor to pay amounts in respect of the Secured Liabilities to the Security Agent as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by an Obligor or any other person in favour of the Security Agent as trustee for the Secured Parties; and
- (c) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Finance Documents to hold as trustee on trust for the Secured Parties.

"SPI 2016 Cash" means the aggregate Co-Borrower Cash held in the Trust Accounts (Co-Borrower) of the Co-Borrower (in respect of the Relevant Segregated Accounts) set out under the heading '*SPI 2016 Trust Accounts (Co-Borrower)*' in Schedule 2 (*Segregated Accounts and Trust Agreements (Co-Borrower)*).

"SPI 2017 Cash" means the aggregate Co-Borrower Cash held in the Trust Accounts (Co-Borrower) of the Co-Borrower (in respect of the Relevant Segregated Accounts) set out under the heading '*SPI 2017 Trust Accounts (Co-Borrower)*' in Schedule 2 (*Segregated Accounts and Trust Agreements (Co-Borrower)*).

"SPI 2018 Cash" means the aggregate Co-Borrower Cash held in the Trust Accounts (Co-Borrower) of the Co-Borrower (in respect of the relevant Segregated Accounts) set out under the heading '*SPI 2018 Trust Accounts (Co-Borrower)*' in Schedule 2 (*Segregated Accounts and Trust Agreements (Co-Borrower)*).

"SPI 2019 Cash" means the aggregate Co-Borrower Cash held in the Trust Accounts (Co-Borrower) of the Co-Borrower (in respect of the relevant Segregated Accounts) set out under the heading '*SPI 2019 Trust Accounts (Co-Borrower)*' in Schedule 2 (*Segregated Accounts and Trust Agreements (Co-Borrower)*).

"Subsidiary" means an entity of which a person has direct or indirect control or owns directly or indirectly more than 50 per cent. of the voting capital or similar right of ownership and **"control"** for this purpose means the power to direct the management and the policies of the entity whether through the ownership of voting capital, by contract or otherwise.

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"Total Commitments" means the aggregate of the Facility A Commitment, the Facility B Commitment and the Facility C Commitment.

"Transaction Security" means the Security created or evidenced, or expressed to be created or evidenced, under the Security Documents.

"Trust Accounts (Aquila)" means each trust account of the Co-Borrower (in respect of the relevant Segregated Accounts) established pursuant to a Trust Agreement (Aquila) and set out in Schedule 3 (*Segregated Accounts and Trust Agreements (Aquila)*).

"Trust Accounts (Co-Borrower)" means each trust account of the Co-Borrower (in respect of the relevant Segregated Accounts) established pursuant to a Trust Agreement (Co-Borrower) and set out in Schedule **Error! Reference source not found.** (*Segregated Accounts and Trust Agreements (Co-Borrower)*).

"Trust Agreements (Aquila)" means each reinsurance trust agreement set out in Schedule 3 (*Aquila Segregated Accounts and Trust Agreements (Aquila)*) entered into by the Co-Borrower in respect of a Relevant Segregated Account, as guarantor, the relevant Cedant, as beneficiary, and The Bank of New York Mellon, as trustee.

"Trust Agreements (Co-Borrower)" means each reinsurance trust agreement set out in Schedule **Error! Reference source not found.** (*Segregated Accounts and Trust Agreements (Co-Borrower)*) entered into by the Co-Borrower in respect of a Relevant Segregated Account, as guarantor, the relevant Cedant, as beneficiary, and The Bank of New York Mellon, as trustee.

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

"Utilisation" means utilisation of the Facilities.

"Utilisation Date" means the date of the Utilisation, being the date on which the proposed Loans are to be made.

"Utilisation Request" means a notice substantially in the form set out in Schedule 5 (*Utilisation Request*).

"VAT" means:

- (a) any value added tax imposed by the UK Value Added Tax Act 1994;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (c) any other tax of a similar nature, whether imposed in the United Kingdom or in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraphs (a) or (b) above, or imposed elsewhere.

1.2 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
 - (i) the **"Borrower"**, any **"Lender"**, any **"Party"**, any **"Finance Party"**, any **"Secured Party"**, any **"Obligor"**, the **"Facility Agent"**, the **"Security Agent"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Finance Documents;
 - (ii) a document in **"agreed form"** is a document which is previously agreed in writing by or on behalf of the Borrower and the Facility Agent or, if not so agreed, is in the form specified by the Facility Agent;
 - (iii) **"assets"** includes present and future properties, revenues and rights of every description;
 - (iv) **"disposal"** includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and **"dispose"** will be construed accordingly;
 - (v) a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
 - (vi) **"guarantee"** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
 - (vii) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

- (viii) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality);
- (ix) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, with which it is customary to comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (x) "**enforcing**" (or any derivation thereof) the Transaction Security includes the appointment of a receiver (or any analogous officer in any jurisdiction) of an Obligor by the Security Agent;
- (xi) a provision of law is a reference to that provision as amended or re-enacted;
- (xii) a time of day is a reference to Bermuda time; and
- (xiii) a singular word includes the plural, and vice versa.
- (b) Clause and Schedule headings are for ease of reference only.
- (c) References to Clauses and Schedules are references to clauses of, and schedules to, this Agreement.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

1.3 **Currency symbols and definitions**

"**US dollars**", "**US\$**" or "**\$**" means the lawful currency of the United States of America.

1.4 **Third Party Rights**

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 2016 (the "**Third Parties Act**") or any other such legislation to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.
- (c) Any Receiver or Delegate may, subject to this Clause 1.4 and the Third Parties Act, rely on any Clause of this Agreement which expressly confers rights on it.

1.5 **Obligors' Agent**

- (a) Each Obligor irrevocably appoints the Primary Borrower to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:

- (i) the Primary Borrower on its behalf to supply all information concerning itself contemplated by this Agreement and the other Finance Documents to the Facility Agent and to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by such Obligor notwithstanding that they may affect such Obligor, without further reference to or the consent of such Obligor (including, without limitation, any amendments to this Agreement); and
- (ii) each Finance Party to give any notice, demand or other communication to such Obligor pursuant to the Finance Documents to the Primary Borrower,

and in each such case, such Obligor shall be bound as though such Obligor itself had given the notices and instructions (including, without limitation, any Utilisation Request) or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

- (b) Every act, omission, agreement, undertaking, settlement, waiver, amendment, supplement, variation, notice or other communication given or made by the Primary Borrower or given to the Primary Borrower under any Finance Document on behalf of any Obligor or in connection with any Finance Document (whether or not known to such Obligor) shall be binding for all purposes on such Obligor as if such Obligor had expressly made, given or concurred with it. In the event of any conflict between any notices or other communications of the Primary Borrower, on the one hand, and such Obligor, on the other hand, those of the Primary Borrower shall prevail.

1.6 Co-Borrower

- (a) Notwithstanding anything to the contrary contained in this Agreement, the Parties agree that the Co-Borrower shall be a co-borrower with respect to, and jointly and severally liable for, all Loans and other Secured Liabilities of the Primary Borrower hereunder, and each reference herein to "the Borrower" with respect to any Loans or Secured Liabilities of the Primary Borrower hereunder shall be deemed to be a reference to each of the Primary Borrower and the Co-Borrower, jointly and severally. Each of the Primary Borrower and the Co-Borrower shall be jointly and severally liable for all such Loans and other Secured Liabilities, regardless of which of them actually receives the benefit thereof. The Finance Parties may (in accordance with the terms of this Agreement and the other Finance Documents) proceed directly against either the Primary Borrower or the Co-Borrower, or both, to collect and recover the full amount, or any portion of, such Secured Liabilities, without first proceeding against the other of them or any other person, or any security or collateral for such Secured Liabilities. Each of the Primary Borrower and the Co-Borrower consents and agrees that none of the Finance Parties shall be under any obligation to marshal any assets in favour of either of them or against or in payment of any or all of such Secured Liabilities.

- (b) The obligations of the Co-Borrower under this Agreement are obligations of the Co-Borrower acting in respect of its general account (including the General Account (Co-Borrower) and the Aquilo Account (Co-Borrower)) and acting in respect of each of its segregated accounts (as defined in the SAC Act) and accordingly, except where the context expressly requires otherwise, references in this Agreement to the "Co-Borrower" include the Co-Borrower acting in respect of its general account (including the General Account (Co-Borrower) and the Aquilo Account (Co-Borrower)) and acting in respect of each of its segregated accounts. In accordance with sections 11(4), 12 and 17(5) of the SAC Act and pursuant to the Schemes, the assets of each of the Co-Borrower's segregated accounts and the Co-Borrower's general account shall be available to meet the liabilities of the Co-Borrower under this Agreement, except to the extent excluded under any Security Document.

1.7 U.S. Federal Income Tax Treatment

- (a) The Parties agree that, for U.S. federal income tax purposes (and applicable U.S. state and local income Tax purposes):
 - (i) each Loan shall be treated as equity interests of the Primary Borrower held by the Lender that advanced such Loan; and
 - (ii) any repayment or prepayment of a Loan by the Co-Borrower shall be treated as a redemption of the preferred equity interests of the Co-Borrower held or deemed to be held by the Primary Borrower, followed by a proportionate redemption of the equity interests of the Primary Borrower deemed to be held by a Lender pursuant to paragraph (a)(i) above.
- (b) The Parties shall prepare and timely file, and cause their affiliates to prepare and timely file, all relevant tax returns on a basis consistent with this Clause 1.7 and take no inconsistent position, and cause their respective affiliates to not take any inconsistent position, on any tax return, in any audit, examination or similar proceeding relating to Taxes before any governmental authority, or otherwise, except to the extent otherwise required pursuant to a "determination" within the meaning of Section 1313(a) of the Internal Revenue Code of 1986 (or any analogous provision of United States state or local law).

2. THE FACILITIES

Subject to the terms of this Agreement:

- (a) the Facility A Lender makes available to the Primary Borrower a US dollar term loan facility in an aggregate amount equal to the Facility A Commitment;
- (b) the Facility B Lender makes available to the Primary Borrower a US dollar term loan facility in an aggregate amount equal to the Facility B Commitment; and
- (c) the Facility C Lender makes available to the Primary Borrower a US dollar term loan facility in an aggregate amount equal to the Facility C Commitment.

3. PURPOSE

3.1 **Purpose**

The Primary Borrower must apply all amounts borrowed by it under the Facilities:

- (a) towards financing the purchase price payable by the Primary Borrower to the Private Fund pursuant to the terms of the Relationship and Economic Rights Agreement for the purchase of shares issued by the Co-Borrower; and
- (b) for any other purpose approved in writing by the Facility Agent (acting on the instructions of the Lenders).

3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. **CONDITIONS OF UTILISATION**

4.1 **Initial conditions precedent**

The Lenders will only be obliged to comply with Clause 5.4 (*Advance of the Loans*) in relation to the Utilisation if, on or before the Utilisation Date, the Lenders have received all of the documents and other evidence listed in Schedule 4 (*Conditions Precedent*), in form and substance satisfactory to the Facility Agent. The Facility Agent shall notify the Borrower promptly upon being so satisfied.

4.2 **Further conditions precedent**

A Lender will only be obliged to comply with Clause 5.4 (*Advance of the Loans*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) the representations in Clause 11 (*Representations*) are true in all material respects; and
- (b) the Lender is satisfied that the Loans are to be used for a purpose permitted by Clause 3.1 (*Purpose*).

4.3 **Facility A – Five Loans**

The Primary Borrower must borrow five Loans under Facility A, in the amounts set out in Part 1 (*Facility A Loans*) of Schedule 1 (*Loans*).

4.4 **Facility B – Five Loans**

The Primary Borrower must borrow five Loans under Facility B, in the amounts set out in Part 2 (*Facility B Loans*) of Schedule 1 (*Loans*).

4.5 **Facility C – Five Loans**

The Primary Borrower must borrow five Loans under Facility C, in the amounts set out in Part 3 (*Facility C Loans*) of Schedule 1 (*Loans*).

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Primary Borrower may utilise the Facilities by delivery to the Facility Agent of a duly completed Utilisation Request not later than 10:00 am on the Business Day before the proposed Utilisation Date (or such other period as the Facility Agent may agree).

5.2 Completion of a Utilisation Request

A Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

- (a) it requests a Loan under each Facility;
- (b) the proposed Utilisation Date is a Business Day within the Availability Period; and
- (c) the currency and amount of each requested Loan complies with Clause 5.3 (*Currency and amount*).

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be US dollars.
- (b) In respect of Facility A, the aggregate amount of the proposed Loans to be made on the Utilisation Date must be an amount which is equal to the Facility A Commitment.
- (c) In respect of Facility B, the aggregate amount of the proposed Loans to be made on the Utilisation Date must be an amount which is equal to the Facility B Commitment.
- (d) In respect of Facility C, the aggregate amount of the proposed Loans to be made on the Utilisation Date must be an amount which is equal to the Facility C Commitment.

5.4 Advance of the Loans

If the conditions set out in this Agreement have been met, each Lender shall advance the requested Loans on the Utilisation Date.

5.5 One Utilisation only

The Primary Borrower may only make one Utilisation under this Agreement. Following such Utilisation, any Commitments which are unutilised shall be immediately cancelled.

6. REPAYMENT

6.1 Repayment of Loans

- (a) The Borrower shall repay all Loans in full on the earlier of:
 - (i) the date falling five years after the date of this Agreement; and
 - (ii) the date which is five Business Days after the date on which the Facility Agent (acting on the instructions of all the Lenders) has issued a written

demand to the Borrower requiring it to repay all the Loans and all other amounts due by it under this Agreement in full.

- (b) Without prejudice to paragraph (a) above, the Facility Agent may, at any time, require the Borrower to repay one or more of the Loans, or any part of any Loan, by giving the Borrower not less than five Business Days' written notice of the relevant Loan(s), or the relevant amount(s) of such Loan(s), required to be so repaid.

6.2 Reborrowing

The Borrower may not reborrow any part of any Facility which is repaid.

7. PREPAYMENT AND CANCELLATION

7.1 Illegality

If, in any applicable jurisdiction, it becomes unlawful for any Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain any Loan or it becomes unlawful for any Affiliate of a Lender for that Lender to do so:

- (a) upon that Lender notifying the Borrower, its Commitment will be immediately cancelled; and
- (b) the Borrower shall repay the relevant Loan (and all other amounts outstanding under the Finance Documents relating to that relevant Loan) on the date specified by the relevant Lender (being no earlier than the last day of any applicable grace period permitted by law).

7.2 Mandatory prepayment – Cash Sweep Amounts

If, at any time:

- (a) the Primary Borrower receives any Cash Sweep Amounts; or
- (b) the Co-Borrower Receives any Cash Sweep Amounts,

the Borrower must promptly (and, in any event, within two Business Days of the date the Cash Sweep Amounts are deposited in the General Account (Primary Borrower), General Account (Co-Borrower) or the Aquilo Account (Co-Borrower), as applicable, apply such Cash Sweep Amounts in prepayment of the Loans as follows:

- (i) any Cash Sweep Amounts constituting SPI 2016 Cash shall be applied in pre-payment of the 2016 Loans on a *pro rata* basis;
- (ii) any Cash Sweep Amounts constituting SPI 2017 Cash shall be applied in pre-payment of the 2017 Loans on a *pro rata* basis;
- (iii) any Cash Sweep Amounts constituting SPI 2018 Cash shall be applied in pre-payment of the 2018 Loans on a *pro rata* basis;
- (iv) any Cash Sweep Amounts constituting SPI 2019 Cash shall be applied in pre-payment of the 2019 Loans on a *pro rata* basis; or

- (v) any Cash Sweep Amounts constituting Aquilo Cash shall be applied in pre-payment of the Aquilo Loans on a *pro rata* basis.

provided that, for the avoidance of doubt, if there are any Cash Sweep Amounts remaining after compliance with the foregoing sub-paragraph (a "**surplus**"), the Borrower shall be entitled, subject to the terms of this Agreement, to use such surplus to make Permitted Payments.

7.3 **Voluntary prepayment**

The Borrower may, if it gives the Facility Agent not less than five Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of the Loans.

7.4 **Restrictions**

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid or, as applicable, such other amount required by this Clause 7 to be paid on such date, without premium or penalty.
- (c) The Borrower may not reborrow any part of any Facility which is prepaid.
- (d) The Borrower shall not repay or prepay all or any part of any Loan or cancel all or any part of the Total Commitments except at the times and in the manner expressly provided for in this Agreement.
- (e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.

7.5 **Application of prepayments**

Any prepayment of the Loans pursuant to this Clause 7 (*Prepayment and Cancellation*) shall be applied as follows:

- (a) with respect to a prepayment made from SPI 2016 Cash, in pre-payment of the 2016 Loans on a *pro rata* basis;
- (b) with respect to a prepayment made from SPI 2017 Cash, in pre-payment of the 2017 Loans on a *pro rata* basis;
- (c) with respect to a prepayment made from SPI 2018 Cash in pre-payment of the 2018 Loans on a *pro rata* basis;
- (d) with respect to a prepayment made from SPI 2019 Cash, in pre-payment of the 2019 Loans on a *pro rata* basis; and
- (e) with respect to a prepayment made from Aquilo Cash, in pre-payment of the Aquilo Loans on a *pro rata* basis.

8. **INTEREST**

No interest shall be payable by the Borrower on any of the Loans or any other amounts due under this Agreement.

9. **INDEMNITIES**

9.1 **General indemnity**

The Borrower undertakes to indemnify each Finance Party against any actions, charges, claims, costs, damages, demands, expenses, liabilities, losses and proceedings which any Finance Party may sustain or incur as a consequence of any default by the Borrower in the performance of any of the obligations expressed to be assumed by it in this Agreement.

9.2 **Indemnity to the Security Agent**

- (a) Each Obligor jointly and severally shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
 - (i) any failure by the Borrower to comply with its obligations under Clause 10 (*Costs and Expenses*);
 - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine and appropriately authorised;
 - (iii) the taking, holding, protection or enforcement of the Transaction Security;
 - (iv) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Agent and each Receiver and Delegate by the Finance Documents or by law;
 - (v) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;
 - (vi) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Agreement; or
 - (vii) acting as Security Agent, Receiver or Delegate under the Finance Documents or which otherwise relates to any of the Security Property (otherwise, in each case, than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Security Assets in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 9.2 and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

- (c) This Clause 9.2 shall survive in full force and effect notwithstanding the termination of this Agreement or the resignation or replacement of the Security Agent (as applicable).

10. COSTS AND EXPENSES

The Borrower shall, promptly on demand, pay to each of the Finance Parties the amount of all costs and expenses (including legal fees) incurred by them in connection with the enforcement of, or the preservation of any rights under, any Finance Document, the Transaction Security and with any proceedings instituted by or against the Facility Agent and/or the Security Agent as a consequence of it entering into a Finance Document, taking or holding the Transaction Security, or enforcing those rights.

11. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in this Clause 11 to each Finance Party on the date of this Agreement.

11.1 Status

- (a) Each Obligor is a limited liability corporation, duly incorporated and validly existing under the law of its Original Jurisdiction.
- (b) Each Obligor has the power to own its assets and carry on its business as it is being conducted, and possesses the capacity to sue and be sued in its own name.

11.2 Binding obligations

- (a) The obligations expressed to be assumed by an Obligor in each Finance Document to which that Obligor is a party are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations.
- (b) Without limiting the generality of paragraph (a) above, subject to the Legal Reservations and any relevant perfection requirements, each Security Document creates the security interests which that Security Document proposes to create and those security interests are valid and effective.

11.3 Non-conflict with other obligations

The entry into and performance by each Obligor of, and the transactions contemplated by, the Finance Documents and the granting of the Transaction Security do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

11.4 **Power and authority**

- (a) Each Obligor has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.
- (b) No limit on the powers of an Obligor will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party.

11.5 **Validity and admissibility in evidence**

- (a) All Authorisations required or desirable:
 - (i) to enable each Obligor lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and
 - (ii) to make the Finance Documents to which an Obligor is party admissible in evidence in its Relevant Jurisdictions,including, without limitation, any Authorisation required from the BMA, have been obtained or effected and are in full force and effect or will be so obtained or effected and maintained in full force and effect as required.
- (b) All Authorisations necessary for the conduct of the business, trade and ordinary activities of each Obligor have been obtained or effected and are in full force and effect.

11.6 **Governing law and enforcement**

- (a) The choice of the governing law of the Finance Documents will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its Relevant Jurisdictions.

11.7 **Bank Accounts**

- (a) All Co-Borrower Cash from time to time is, and will be, deposited in a Trust Account (Co-Borrower) until released in accordance with the terms of the relevant Trust Agreement (Co-Borrower). Each Trust Agreement (Co-Borrower) will direct the trustee to transfer any released Co-Borrower Cash directly to the General Account (Co-Borrower), if not paid directly to Lenders in accordance with Clause 7.2 (*Mandatory prepayment – Cash Sweep Amounts*).
- (b) All Aquilo Cash from time to time is, and will be, deposited in a Trust Account (Aquilo) until released in accordance with the terms of the relevant Trust Agreement (Aquilo) and Fronting Insurance Agreement. Each Trust Agreement (Aquilo) and Fronting Insurance Agreement will direct the trustee or the

fronting reinsurer, as applicable, to transfer any released Aquilo Cash directly to the Aquilo Account (Co-Borrower), if not paid directly to Lenders in accordance with Clause 7.2 (*Mandatory prepayment – Cash Sweep Amounts*).

11.8 Repetition

The representations and warranties set out in this Clause 11 are deemed to be made by each Obligor by reference to the facts and circumstances then existing on the date of the Utilisation Request and on the Utilisation Date.

12. GENERAL UNDERTAKINGS

The undertakings in this Clause 12 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitments are in force.

12.1 Authorisations

Each Obligor shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) if requested by the Facility Agent, supply certified copies to the Facility Agent of,

any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

- (i) enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in any Relevant Jurisdiction of any Finance Document (including, without limitation, any Authorisation required from the BMA); or
- (ii) own its assets and carry on its business as it is being conducted.

12.2 Compliance with laws

Each Obligor shall comply in all respects with all laws to which it may be subject.

12.3 Negative pledge

In this Clause 12.3, "**Quasi-Security**" means an arrangement or transaction described in paragraph (b) below.

- (a) Each Obligor shall not create or permit to subsist any Security over any of its assets.
- (b) Each Obligor shall not:
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by any such Obligor;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

- (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply to any Security or (as the case may be) Quasi-Security, listed below:
 - (i) the Transaction Security;
 - (ii) any lien arising by operation of law and in the ordinary course of trading; or
 - (iii) any Security or Quasi-Security granted with the consent of the Facility Agent.

12.4 Disposals

- (a) No Obligor shall enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to dispose of all or any part of any asset.
- (b) Paragraph (a) above does not apply to any disposal:
 - (i) of cash by way of a payment out of an Account in accordance with this Agreement;
 - (ii) made in the ordinary course of trading of any asset which is subject to any floating charge created under any Security Document; or
 - (iii) made with the consent of the Facility Agent.

12.5 Financial Indebtedness

- (a) No Obligor shall incur or permit to be outstanding any Financial Indebtedness.
- (b) Paragraph (a) above does not apply to:
 - (i) any Financial Indebtedness incurred under the Finance Documents; or
 - (ii) any other Financial Indebtedness incurred with the consent of the Facility Agent.

12.6 Lending and guarantees

- (a) No Obligor shall be the creditor in respect of any loan or any form of credit to any person except with the consent of the Facility Agent.
- (b) No Obligor shall give or allow to be outstanding any guarantee or indemnity to or for the benefit of any person in respect of any obligation of any other person

or enter into any document under which the Obligor assumes any liability of any other person other than any guarantee or indemnity given under the Finance Documents.

12.7 Shares, dividends and share redemption

- (a) No Obligor shall:
 - (i) issue any shares (or amend any rights attaching to its issued shares) or any other securities; or
 - (ii) grant options or warrants to subscribe for shares in its capital to any person,

other than with the consent of the Facility Agent.
- (b) No Obligor shall:
 - (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);
 - (ii) repay or distribute any dividend or share premium reserve; or
 - (iii) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.
- (c) Paragraph (b) above does not apply to a Permitted Payment.

12.8 Books and records

- (a) Each Obligor shall:
 - (i) maintain proper books of account and supporting records for all payments, receipts and other transactions effected by it (including, without limitation, appropriate ledgers in respect of any amounts received or receivable by it which constitute SPI Cash 2016, SPI Cash 2017, SPI Cash 2018, SPI Cash 2019 or Aquilo Cash); and
 - (ii) promptly upon request, provide copies of such books of account and supporting records to the Facility Agent.
- (b) The Facility Agent may, at any time, make a determination as to the source of any amount received or receivable by any Obligor (including, without limitation, a determination as to whether such amount that has been received (or is to be received) by an Obligor has been sourced from SPI Cash 2016, SPI Cash 2017, SPI Cash 2018, SPI Cash 2019 or Aquilo Cash) and such determination shall, in the absence of manifest error, be binding on the Parties.

12.9 Further assurances

- (a) Each Obligor must, at its own expense, promptly do all such acts or execute all such documents (including assignments, assignments, transfers, mortgages,

charges, standard securities, notices and instructions) as any Finance Party may reasonably specify (and in such form as any Finance Party may reasonably require):

- (i) to perfect the Security created or intended to be created under or evidenced by the Security Documents or for the exercise of any rights, powers and remedies of the Secured Parties provided by or pursuant to the Finance Documents or by law;
 - (ii) to confer on the Secured Parties, Security over any property and assets of the Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Security Documents;
 - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security; and/or
 - (iv) allow any Finance Party to make any applications to the BMA or any other governmental authority on behalf of the Borrower from time to time.
- (b) Each Obligor must take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent by or pursuant to the Security Documents.

13. BANK ACCOUNTS

13.1 Accounts

- (a) The Primary Borrower must, at all times, maintain the General Account (Primary Borrower) with the Account Bank (Primary Borrower).
- (b) The Co-Borrower must, at all times, maintain the General Account (Co-Borrower) and the Aquilo Account (Co-Borrower) with the Account Bank (Co-Borrower).
- (c) Neither the Primary Borrower nor the Co-Borrower may, without the prior written consent of the Facility Agent, maintain any other bank accounts.
- (d) The Primary Borrower must ensure that all amounts received or receivable by it are paid into the General Account (Primary Borrower).
- (e) The Co-Borrower must ensure that all amounts received or receivable by it (including, without limitation, any Co-Borrower Cash or any Aquilo Cash that is released from a Trust Account (Co-Borrower) or a Trust Account (Aquilo) to the Co-Borrower from time to time) are paid into the General Account (Co-Borrower) or the Aquilo Account (Co-Borrower), as applicable, if not paid directly to Lenders in accordance with Clause 7.2 (*Mandatory prepayment – Cash Sweep Amounts*).
- (f) The Co-Borrower will provide notice to the Facility Agent promptly after it receives notice or otherwise becomes aware that any amount of Co-Borrower

cash will be released from a Trust Account (Co-Borrower) or Trust Account (Aquila), including the amount of Co-Borrower cash being released.

13.2 Account Bank

- (a) Subject to paragraphs (b) and (c) below, each Account must be held with an Account Bank.
- (b) An Account may be replaced with a bank account held with an Account Bank or another bank if the Borrower so requests and the Facility Agent agrees.
- (c) The replacement of an Account only becomes effective when the relevant bank agrees with the Facility Agent and the Borrower, in a manner satisfactory to the Facility Agent, to fulfil the role of the bank holding that Account.

13.3 General Account (Primary Borrower)

- (a) Except as provided in paragraph (c) below, the Primary Borrower has signing rights in relation to the General Account (Primary Borrower).
- (b) Except as provided in paragraph (c) below, the Primary Borrower may withdraw any amount from the General Account (Primary Borrower) for any purpose permitted by the terms of the Finance Documents.
- (c) At any time after the Borrower has breached any provision of this Agreement, or any Finance Party has made a demand for payment of any amount owing under this Agreement, the Security Agent may:
 - (i) operate the General Account (Primary Borrower);
 - (ii) notify the Primary Borrower that its rights to operate the General Account (Primary Borrower) are suspended, such notice to take effect in accordance with its terms; and
 - (iii) withdraw from, and apply amounts standing to the credit of, the General Account (Primary Borrower) in or towards the repayment of the Loans and any amount due but unpaid to a Finance Party under the Finance Documents.

13.4 General Account (Co-Borrower)

- (a) Except as provided in paragraph (c) below, the Co-Borrower has signing rights in relation to the General Account (Co-Borrower) and the Aquila Account (Co-Borrower).
- (b) The Co-Borrower may only withdraw an amount from the General Account (Co-Borrower) or the Aquila Account (Co-Borrower) to:
 - (i) make a prepayment in accordance with Clause 7.2 (*Mandatory prepayment – Cash Sweep Amounts*);
 - (ii) make a Permitted Payment; or

- (iii) pay any fees, expenses or costs incurred in the run-off of the business and paid from the reserve created at the Reinsurer on or around the date of this Agreement and held in the General Account (Co-Borrower) or the Aquilo Account (Co-Borrower);
- (c) At any time after the Borrower has breached any provision of this Agreement, or any Finance Party has made a demand for payment of any amount owing under this Agreement, the Security Agent may:
 - (i) operate the General Account (Co-Borrower) and the Aquilo Account (Co-Borrower) in accordance with the terms of the relevant Deposit Account Control Agreement; and
 - (ii) withdraw from, and apply amounts standing to the credit of, the General Account (Co-Borrower) or the Aquilo Account (Co-Borrower), as applicable, in or towards the repayment of the Loans and any amount due but unpaid to a Finance Party under the Finance Documents.

13.5 Miscellaneous Accounts provisions

- (a) The Borrower must ensure that no Account goes into overdraft.
- (b) Any amount received or recovered by the Borrower which should, pursuant to the terms of this Agreement, have been paid into an Account, must be held subject to the Security created by the Finance Documents and immediately be paid to the relevant Account or to the Facility Agent in the same funds as received or recovered.
- (c) The Borrower will not withdraw or transfer any amount from an Account other than as expressly permitted under this Clause 13 (*Bank Accounts*).
- (d) No Secured Party is responsible or liable to the Borrower for:
 - (i) any non-payment of any liability of the Borrower which could be paid out of moneys standing to the credit of an Account; or
 - (ii) any withdrawal wrongly made, if made in good faith.

14. CHANGES TO THE PARTIES

14.1 Assignments and transfers by a Lender

A Lender may at any time assign or transfer all or any part of its rights and interests and/or obligations under the Finance Documents to any person.

14.2 Assignments and transfers by Obligors

No Obligor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

15. ROLE OF THE FACILITY AGENT AND THE SECURITY AGENT

15.1 The Facility Agent and the Security Agent

- (a) Each of the Lenders appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) The Secured Parties appoint the Security Agent to act as security trustee of the Security Property under and in connection with the Finance Documents.
- (c) The Security Agent declares that it holds the Security Property on trust for the Secured Parties on the terms contained in this Agreement.
- (d) The Secured Parties authorise the Security Agent to:
 - (i) perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions; and
 - (ii) enter into any Finance Document or any document referred to in a Finance Document to which the Security Agent is expressed to be a party.

15.2 Enforcement through Security Agent only

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Security Documents except through the Security Agent.

15.3 Instructions

- (a) Each of the Facility Agent and the Security Agent shall:
 - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority, duty, determination, designation, instruction, approval, demand, requirement, appointment, request or discretion vested in it as Facility Agent or Security Agent (as applicable) including, without limitation, any duty to consult with any other person in relation to any matter in accordance with any instructions given to it by:
 - (A) all Lenders if the relevant Finance Document stipulates the matter is an all Lender decision; and
 - (B) in all other cases, the Majority Lenders;
 - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with sub-paragraph (a)(i) above;
 - (iii) only be obliged to act (or refrain from acting) on any instructions or directions received in accordance with this Clause 15.3 (*Instructions*) to the extent that it, acting reasonably (on its own initiative and not on the instructions of the Lenders), considers such instructions or directions to be

incidental to the exercise of the express rights, powers, authorities, duties, determinations, designations, instructions, approvals, demands, requirements, appointments, requests and discretions given to it under the Finance Documents; and

- (iv) unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.
- (b) Each of the Facility Agent and the Security Agent shall be entitled to request instructions, or clarification of any instruction, from the Lenders as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Security Agent may refrain from acting unless and until it receives those instructions or that clarification and shall not be liable to any party pending receipt of those instructions or clarification.
- (c) Save in the case of decisions stipulated to be a matter for any other Finance Party or group of Finance Parties under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Facility Agent or Security Agent (as applicable) by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) Paragraph (a) above shall not apply:
 - (i) where a contrary indication appears in a Finance Document;
 - (ii) where this Agreement requires the Facility Agent or the Security Agent to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Facility Agent's or the Security Agent's own position in its personal capacity as opposed to its role of Facility Agent or Security Agent for the relevant Finance Parties or Secured Parties (as applicable) including, without limitation, Clause 15.6 (*No duty to account*) to Clause 15.11 (*Exclusion of liability*), Clause 15.15 (*Information from the Facility Agent*) to Clause 15.20 (*Custodians and nominees*) and Clause 15.23 (*Acceptance of title*) to Clause 15.24 (*Winding up of trust*); or
 - (iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:
 - (A) Clause 16.1 (*Order of application*);
 - (B) Clause 16.2 (*Prospective liabilities*); and
 - (C) Clause 16.5 (*Permitted Deductions*).
- (e) In exercising any discretion to exercise a right, power or authority under the Finance Documents where either:

- (i) it has not received any instructions as to the exercise of that discretion; or
- (ii) the exercise of that discretion is subject to paragraph (c)(iv) above,

the Security Agent shall do so having regard to the interests of the Secured Parties.

- (f) The Facility Agent or the Security Agent (as applicable) may refrain from acting in accordance with any instructions of any Finance Party or group of Finance Parties until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
- (g) Without prejudice to the provisions to the remainder of this Clause 16.3 (*Instructions*), in the absence of instructions, each of the Facility Agent and the Security Agent may act (or refrain from acting) as it considers in its discretion to be appropriate.
- (h) Neither the Facility Agent nor the Security Agent is authorised to act on behalf of a Finance Party (without first obtaining that Finance Party's consent) in any legal or arbitration proceedings relating to any Finance Document. This paragraph (h) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Security Documents or enforcement of the Transaction Security or the Security Documents.

15.4 Duties of the Facility Agent and the Security Agent

- (a) The duties of the Facility Agent and the Security Agent under the Finance Documents are solely mechanical and administrative in nature.
- (b) Each of the Facility Agent and the Security Agent shall promptly:
 - (i) forward to the Lenders a copy of any document received by it from any Obligor under any Finance Document; and
 - (ii) forward to a Party the original or a copy of any document which is delivered to it for that Party by any other Party.
- (c) Except where a Finance Document specifically provides otherwise, neither the Facility Agent nor the Security Agent is obliged to review or check the adequacy, accuracy, validity or completeness of any document it forwards to another Party.
- (d) Each of the Facility Agent and the Security Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which it is expressed to be a party (and no others shall be implied).

15.5 No fiduciary duties owed to the Obligor

Nothing in this Agreement constitutes the Facility Agent or the Security Agent as an agent, trustee or fiduciary of any Obligor.

15.6 No duty to account

Neither the Facility Agent nor the Security Agent shall be bound to account to any Secured Party for any sum or the profit element of any sum received by it for its own account.

15.7 Business with the Obligor

Each of the Facility Agent and the Security Agent may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Obligor.

15.8 Rights and discretions

- (a) Each of the Facility Agent and the Security Agent may:
 - (i) rely on any representation, communication, notice or document believed by it to be genuine and appropriately authorised;
 - (ii) assume that:
 - (A) any instructions received by it from the Lenders are duly given in accordance with the terms of the Finance Documents;
 - (B) unless it has received notice of revocation, those instructions have not been revoked; and
 - (C) if it receives any instructions to act in relation to the Transaction Security, all applicable conditions under the Finance Documents for so acting have been satisfied; and
 - (iii) rely on a certificate from any person:
 - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
 - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) Each of the Facility Agent and the Security Agent may assume (unless it has received notice to the contrary in its capacity as agent or security trustee for the Finance Parties or Secured Parties) that:
 - (i) no breach of the terms of the Finance Documents by an Obligor has occurred;
 - (ii) any right, power, authority or discretion vested in any Party or any Secured Party has not been exercised; and

- (iii) any notice made by the Borrower is made on behalf of and with the consent and knowledge of all the Obligors.
- (c) Each of the Facility Agent and the Security Agent may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, each of the Facility Agent and the Security Agent may at any time engage and pay for the services of any lawyers to act as independent counsel to it (and so separate from any lawyers instructed by the Lenders) if the Facility Agent or the Security Agent (as applicable) in its reasonable opinion deems this to be desirable.
- (e) Each of the Facility Agent and the Security Agent may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Facility Agent or the Security Agent or by any other Party) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.
- (f) Each of the Facility Agent and the Security Agent, any Receiver and any Delegate may act in relation to the Finance Documents and the Security Property through its officers, employees and agents and shall not:
 - (i) be liable for any error of judgement made by any such person; or
 - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,

unless such error or such loss was directly caused by the Facility Agent's, the Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct.
- (g) Unless this Agreement expressly specifies otherwise, each of the Facility Agent and the Security Agent may disclose to any other Party any information it reasonably believes it has received as security trustee under this Agreement.
- (h) Notwithstanding any other provision of any Finance Document to the contrary, each of the Facility Agent and the Security Agent is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.
- (i) Notwithstanding any provision of any Finance Document to the contrary, each of the Facility Agent and the Security Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power,

authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, pre-funding or security for, such risk or liability is not reasonably assured to it.

15.9 Responsibility for documentation

None of the Facility Agent, the Security Agent, any Receiver or any Delegate is responsible or liable for:

- (a) the adequacy, accuracy, validity or completeness of any information (whether oral or written) supplied by the Facility Agent, the Security Agent, an Obligor or any other person in or in connection with any Finance Document or the transactions contemplated in the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to a Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

15.10 No duty to monitor

Neither the Facility Agent nor the Security Agent shall be bound to enquire:

- (a) whether or not any breach of the terms of the Finance Documents by an Obligor has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Finance Document; or
- (c) whether any other event specified in any Finance Document has occurred.

15.11 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Finance Document excluding or limiting the liability of the Facility Agent, the Security Agent, any Receiver or Delegate), none of the Facility Agent, the Security Agent, any Receiver nor any Delegate will be liable for:
 - (i) any damages, costs or losses to any person, any diminution in value, or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Finance Document or the Security Property unless directly caused by its gross negligence or wilful misconduct;

- (ii) exercising or not exercising any right, power, authority or discretion given to it by, or in connection with, any Finance Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document or the Security Property;
- (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
- (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) No Party (other than the Facility Agent, the Security Agent, that Receiver or that Delegate (as applicable)) may take any proceedings against any officer, employee or agent of the Facility Agent, the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause 15.11 (*Exclusion of liability*).
- (c) Neither the Facility Agent nor the Security Agent will be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent or the Security Agent (as applicable) if the Facility Agent or the Security Agent (as applicable) has taken all reasonable steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent or the Security Agent (as applicable) for that purpose.
- (d) Nothing in this Agreement shall oblige the Facility Agent or the Security Agent to carry out:

- (i) any “**know your customer**” or other checks in relation to any person; or
- (ii) any check on the extent to which any transaction contemplated by this Agreement might be unlawful for any Secured Party,

on behalf of any Secured Party and each Secured Party confirms to the Facility Agent and the Security Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent or the Security Agent (as applicable).

- (e) Without prejudice to any provision of any Finance Document excluding or limiting the liability of the Facility Agent, the Security Agent, any Receiver or Delegate, any liability of the Facility Agent, the Security Agent, any Receiver or Delegate arising under or in connection with any Finance Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Facility Agent, the Security Agent, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Facility Agent, the Security Agent, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Facility Agent, the Security Agent, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Facility Agent, the Security Agent, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

15.12 Lenders' indemnity to the Facility Agent and the Security Agent

- (a) Each Lender shall indemnify the Facility Agent, the Security Agent and every Receiver and every Delegate, within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Facility Agent's, Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Facility Agent, Security Agent, Receiver or Delegate under, or exercising any authority conferred under, the Finance Documents (unless the relevant Facility Agent, Security Agent, Receiver or Delegate has been reimbursed by a Obligor pursuant to a Finance Document).
- (b) Subject to paragraph (c) below, the Borrower shall immediately on demand reimburse the relevant Lender for any payment that such Lender makes to the Facility Agent or the Security Agent pursuant to paragraph (a) above.
- (c) Paragraph (b) above shall not apply to the extent that the indemnity payment in respect of which a Lender claims reimbursement relates to a liability of the Facility Agent or the Security Agent to an Obligor.

- (d) This clause 15.12 shall survive in full force and effect notwithstanding the termination of this Agreement or the resignation or replacement of the Facility Agent or the Security Agent (as applicable).

15.13 Resignation of the Facility Agent or the Security Agent

- (a) Each of the Facility Agent and the Security Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Borrower.
- (b) Alternatively the Facility Agent or the Security Agent may resign by giving 30 days' notice to the other Finance Parties and the Borrower, in which case the Majority Lenders may appoint a successor Facility Agent or Security Agent (as applicable).
- (c) If the Majority Lenders have not appointed a successor Facility Agent or Security Agent in accordance with paragraph (b) above within 20 days after notice of resignation was given, the retiring Facility Agent or Security Agent (as applicable) may appoint a successor Facility Agent or Security Agent (as applicable).
- (d) The retiring Facility Agent or Security Agent (as applicable) shall, make available to the successor Facility Agent or Security Agent (as applicable) such documents and records and provide such assistance as the successor Facility Agent or Security Agent (as applicable) may reasonably request for the purposes of performing its functions as Facility Agent or Security Agent (as applicable) under the Finance Documents. The Borrower shall, within three Business Days of demand, reimburse the retiring Facility Agent or Security Agent (as applicable) for the amount of all costs and expenses (including legal fees) properly incurred by it in making available such documents and records and providing such assistance.
- (e) The Security Agent's resignation notice shall only take effect upon:
 - (i) the appointment of a successor; and
 - (ii) the transfer of all the Security Property to that successor.
- (f) Upon the appointment of a successor, the retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under paragraph (b) of Clause 15.24 (*Winding up of trust*) and paragraph (d) above) but shall remain entitled to the benefit of this Clause 15 (*Role of the Facility Agent and the Security Agent*) and Clause 9.2 (*Indemnity to the Security Agent*) (and any Security Agent fees for the account of the retiring Security Agent shall cease to accrue from (and shall be payable on) that date). Any successor Security Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor Security Agent had been an original Party.

- (g) The Facility Agent may, by notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Borrower.

15.14 Confidentiality

- (a) In acting as agent or trustee for the Finance Parties or the Secured Parties (as applicable), each of the Facility Agent and the Security Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent or the Security Agent, it may be treated as confidential to that division or department and the Facility Agent or the Security Agent (as applicable) shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, neither the Facility Agent nor the Security Agent is obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

15.15 Information from the Secured Parties

Each Finance Party shall supply the Facility Agent and the Security Agent (as the case may be) with any information that the Facility Agent or, as the case may be, the Security Agent may reasonably specify as being necessary or desirable to enable the Facility Agent to perform its functions as Facility Agent or, as the case may be, the Security Agent to perform its functions as Security Agent.

15.16 Credit appraisal by the Lenders

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each Obligor;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;
- (c) whether it has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Security Property, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into,

made or executed in anticipation of, under or in connection with any Finance Document or the Security Property;

- (d) the adequacy, accuracy, validity or completeness of any information provided by the Security Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of, the Security Assets, the priority of any of the Transaction Security or the existence of any Security affecting the Secured Property.

15.17 Reliance and engagement letters

The Facility Agent and the Security Agent may obtain and rely on any certificate or report from any Obligor's auditor and may enter into any reliance letter or engagement letter relating to that certificate or report on such terms as it may consider appropriate (including, without limitation, restrictions on the auditor's liability and the extent to which that certificate or report may be relied on or disclosed).

15.18 No responsibility to perfect Transaction Security

The Security Agent shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Obligor to any of the Security Assets;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Finance Document or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Finance Document or of the Transaction Security;
- (d) take, or to require any Obligor to take, any step to perfect its title to any of the Security Assets or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or
- (e) require any further assurance in relation to any Security Document.

15.19 Insurance by Security Agent

- (a) The Security Agent shall not be obliged:
 - (i) to insure any of the Security Assets;
 - (ii) to require any other person to maintain any insurance; or

- (iii) to verify any obligation to arrange or maintain insurance contained in any Finance Document,

and the Security Agent shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

- (b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Facility Agent requests it to do so in writing and the Security Agent fails to do so within 14 days after receipt of that request.

15.20 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

15.21 Delegation by the Security Agent

- (a) Each of the Security Agent, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.
- (b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.
- (c) No Security Agent, Receiver or Delegate shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

15.22 Additional Security Agents

- (a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it:
 - (i) if it considers that appointment to be in the interests of the Secured Parties;
 - (ii) for the purposes of conforming to any legal requirement, restriction or condition which the Security Agent deems to be relevant; or
 - (iii) for obtaining or enforcing any judgment in any jurisdiction,

and the Security Agent shall give prior notice to the Borrower and the Facility Agent of that appointment.

- (b) Any person so appointed shall have the rights, powers, authorities and discretions (not exceeding those given to the Security Agent under or in connection with the Finance Documents) and the duties, obligations and responsibilities that are given or imposed by the instrument of appointment.
- (c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

15.23 Acceptance of title

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any Obligor may have to any of the Security Assets and shall not be liable for, or bound to require any Obligor to remedy, any defect in its right or title.

15.24 Winding up of trust

If the Security Agent, with the approval of the Facility Agent, determines that:

- (a) all of the Secured Liabilities and all other obligations secured by the Security Documents have been fully and finally discharged; and
- (b) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents,

then:

- (i) the trusts set out in this Agreement shall be wound up and the Security Agent shall release, without recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents; and
- (ii) any Security Agent which has resigned pursuant to Clause 15.13 (*Resignation of the Facility Agent or the Security Agent*) shall release, without recourse or warranty, all of its rights under each Security Document.

15.25 Obligor: Power of Attorney

Each Obligor by way of security for its obligations under this Agreement irrevocably appoints the Security Agent to be its attorney to do anything which that Obligor has authorised the Security Agent or any other Party to do under this Agreement or is itself required to do under this Agreement but has failed to do (and the Security Agent may delegate that power on such terms as it sees fit).

15.26 Powers supplemental to Trustee Acts

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1975 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

15.27 Disapplication of Trustee Acts

Where there are any inconsistencies between the Trustee Act 1975 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent permitted by law and regulation, prevail and shall constitute a restriction or exclusion for the purposes of the Trustee Act 1975.

16. APPLICATION OF PROCEEDS

16.1 Order of application

Subject to Clause 16.2 (*Prospective liabilities*), all amounts from time to time received or recovered by the Security Agent pursuant to the terms of any Finance Document or in connection with the realisation or enforcement of all or any part of the Transaction Security (for the purposes of this Clause 16.1, the "**Recoveries**") shall be held by the Security Agent on trust to apply them at any time as the Security Agent (acting on the instructions of the Facility Agent) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 16.1), in the following order of priority:

- (a) in discharging any sums owing to the Security Agent, any Receiver or any Delegate;
- (b) in discharging all costs and expenses incurred by the Secured Parties in connection with any realisation or enforcement of the Transaction Security carried out in accordance with the terms of this Agreement;
- (c) in payment or distribution to the Lenders for application towards discharge of the Secured Liabilities in accordance with the terms of this Agreement;
- (d) if none of the Obligor are under any further actual or contingent liability under any Finance Document, in payment or distribution to any person to whom the Security Agent is obliged to pay or distribute in priority to any Obligor; and
- (e) the balance, if any, in payment or distribution to the relevant Obligor.

16.2 Prospective liabilities

Following acceleration, the Security Agent may (acting on the instructions of the Facility Agent) hold any amount of the Recoveries in a suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit for later application under Clause 16.1 (*Order of application*) in respect of:

- (a) any sum to the Security Agent, any Receiver or any Delegate; and
- (b) any part of the Secured Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

16.3 Investment of proceeds

Prior to the application of the proceeds of the Recoveries in accordance with Clause 16.1 (*Order of application*) the Security Agent may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of this Clause 16.3.

16.4 Currency Conversion

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to another, at a market rate of exchange.
- (b) The obligations of any Obligor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

16.5 Permitted Deductions

The Security Agent shall be entitled, in its discretion:

- (a) to set aside by way of reserve amounts required to meet, and to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Agreement; and
- (b) to pay all Taxes which may be assessed against it in respect of any of the Security Assets, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

16.6 Good Discharge

- (a) Any payment to be made in respect of the Secured Liabilities by the Security Agent may be made to the Facility Agent on behalf of the Finance Parties and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.
- (b) The Security Agent is under no obligation to make the payments to the Facility Agent under paragraph (a) above in the same currency as that in which the obligations and liabilities owing to the relevant Finance Party are denominated.

17. PAYMENT MECHANICS

17.1 Payments to the Facility Agent

On each date on which a Obligor is required to make a payment under a Finance Document, the Obligor shall make the same available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date to such account as the Facility Agent notifies to the Borrower.

17.2 Partial payments

If the Facility Agent or the Security Agent (as applicable) receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Facility Agent or the Security Agent (as applicable) shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

- (a) **first**, in or towards payment of any unpaid amount owing to the Security Agent, any Receiver or any Delegate under the Finance Documents;
- (b) **secondly**, in or towards payment of any principal due but unpaid under this Agreement; and
- (c) **thirdly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

17.3 No set-off by Obligors

All payments to be made by a Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

17.4 Business Days

- (a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

17.5 Currency of account

- (a) Subject to paragraphs (b) and (c) below, US dollars is the currency of account and payment for any sum due from an Obligor under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than US dollars shall be paid in that other currency.

17.6 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (after consultation with the Borrower); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Facility Agent(acting reasonably).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Facility Agent (acting reasonably and after consultation with the Borrower) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice and otherwise to reflect the change in currency.

18. SET-OFF

Each Finance Party may set off any matured obligation due from an Obligor under the Finance Documents against any matured obligation owed by that Finance Party to an Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

19. NOTICES

19.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by email or letter.

19.2 Addresses

The addresses, email addresses and fax numbers of the Borrower (and each other Obligor), each Lender, the Facility Agent and the Security Agent are:

- (a) in the case of the Primary Borrower:

Address: c/o Markel Corporation
4521 Highwood Parkway
Glen Allen, VA 23060
USA

Email address: Richard.Grinnan@Markel.com

Justin.Broussard@Markel.com

For the attention of: Richard Grinnan and Justin Broussard

(b) in the case of the Co-Borrower:

Address: Markel House
2 Front Street
Hamilton HM11, Bermuda

Email address: Federico.Candiolo@markelcatco.com
Michael.Toyer@markelcatco.com

For the attention of: Federico Candiolo and Michael Toyer

(c) in the case of each Lender:

Address: c/o Markel Corporation
4521 Highwood Parkway
Glen Allen, VA 23060
USA

Email address: Richard.Grinnan@Markel.com
Justin.Broussard@Markel.com

For the attention of: Richard Grinnan and Justin Broussard

(d) in the case of the Facility Agent and the Security Agent:

Address: c/o Markel Corporation
4521 Highwood Parkway
Glen Allen, VA 23060
USA

Email address: Richard.Grinnan@Markel.com
Justin.Broussard@Markel.com

For the attention of: Richard Grinnan and Justin Broussard

or any substitute address, email address or fax number as such Party shall have notified to the other Party for this purpose. In the case of an Obligor, the address of its registered office or of any place where it carries on business or of any agent for the service of process under this agreement shall also be addresses of that Obligor for the purpose of this Clause 19.2.

19.3 **Delivery and Effectiveness**

- (a) A demand, notice or other communication made by the Facility Agent or Security Agent on any Obligor under any Finance Document will be effective:
 - (i) if left at an address referred to in this Clause 19, when so left;
 - (ii) if posted by first class post to an address referred to in this Clause 19, two Business Days after being deposited in the post, postage prepaid in an envelope addressed to the Borrower at that address; or
 - (iii) if transmitted by email to an email address referred to in this Clause 19, when received.
- (b) A communication to the Facility Agent or the Security Agent will be effective only when actually received by the Facility Agent or Security Agent and then only if it is expressly marked for the attention of any department or officer referred to in this Clause.

19.4 **English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Facility Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

20. **CALCULATIONS AND CERTIFICATES**

20.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

20.2 **Certificates and Determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

20.3 **Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days.

21. PARTIAL INVALIDITY

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

22. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any of the Finance Documents on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

23. AMENDMENTS AND WAIVERS

23.1 Required consents

- (a) Subject to Clause 23.2 (*Exceptions*), any term of the Finance Documents may be amended or waived with the consent of the Facility Agent and the Obligors' Agent and any such amendment or waiver will be binding on all Parties.
- (b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this clause 23.1.
- (c) Each Obligor agrees to any such amendment or waiver permitted by this clause 23 which is agreed to by the Obligors' Agent. This includes any amendment or waiver which would, but for this paragraph (c), require the consent of all of the Obligors.

23.2 Exceptions

An amendment or waiver which relates to the rights or obligations of the Security Agent may not be effected without the consent of the Security Agent.

24. JOINT PROVISIONAL LIQUIDATORS' LIABILITY

24.1 Each of the Parties acknowledges that the JPLs act as an agent of the Reinsurer and each of the Parties agrees that neither the JPLs nor their related parties shall incur any personal liability in any circumstances whatsoever, including, without limitation:

- (a) under, or by virtue of, any document (including this Agreement);
- (b) in relation to any related matter or claim howsoever, whenever, and wherever arising, and whether such claim be formulated in contract, restitution, tort or by reference to any other remedy or right, and in whatever jurisdiction or forum;
- (c) by reason of their acting in their capacity as agent of the Reinsurer;

- (d) whether or not acting as agent the Reinsurer, by reason of their acting in the name of and on behalf of the Reinsurer; or
- (e) in respect of any transfer, assignment or other documents made or entered into and delivered pursuant to this Agreement.

Neither the JPLs nor their related parties shall be liable on or under any deed or document executed with a view to, or for the purpose of, putting any document (including this Agreement) into effect, whether or not such deed or document so provides in its terms and the JPLs shall be entitled at any time to have any such deeds or documents amended at any time to include an exclusion of personal liability on the terms as set out in paragraph 24.1 above.

25. **COUNTERPARTS**

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

26. **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by Bermudian law.

27. **ENFORCEMENT**

27.1 **Jurisdiction**

- (a) The courts of Bermuda have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "**Dispute**").
- (b) The Parties agree that the courts of Bermuda are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

This Agreement has been entered into and executed as a deed on the date stated at the beginning of this Agreement.

SCHEDULE 1

LOANS

Part 1 *(Facility A Loans)*

Loan	Amount
Facility A 2016 Loan	US\$[•]
Facility A 2017 Loan	US\$[•]
Facility A 2018 Loan	US\$[•]
Facility A 2019 Loan	US\$[•]
Facility A Aquilo Loan	US\$[•]

Part 2 *(Facility B Loans)*

Loan	Amount
Facility B 2016 Loan	US\$[•]
Facility B 2017 Loan	US\$[•]
Facility B 2018 Loan	US\$[•]
Facility B 2019 Loan	US\$[•]
Facility B Aquilo Loan	US\$[•]

Part 3 *(Facility C Loans)*

Loan	Amount
Facility C 2016 Loan	US\$[•]
Facility C 2017 Loan	US\$[•]
Facility C 2018 Loan	US\$[•]
Facility C 2019 Loan	US\$[•]

Facility C Aquilo Loan	US\$[•]
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SCHEDULE 2

SEGREGATED ACCOUNTS AND TRUST AGREEMENTS (CO-BORROWER)

SCHEDULE 3

SEGREGATED ACCOUNTS AND TRUST AGREEMENTS (AQUILO FUND)

SCHEDULE 4
CONDITIONS PRECEDENT

- (a) An original of this Agreement, duly executed by each of the Parties.
- (b) An original of each of the following security documents, each duly executed by each party to each such document and, where applicable, delivered and, where applicable, in registrable form together with all duly executed documents and other things that any Finance Party requires to enable it to register any such document, where applicable, with any government agency or on any applicable register:

Name of security provider	Security Document	Governing law of document
Primary Borrower	Debenture granted over all present and future property of the Primary Borrower	Bermudian
Co-Borrower	Debenture granted over all present and future property of the Co-Borrower and in respect of each Relevant Segregated Account, excluding all assets of each Segregated Account used as collateral to secure the reinsurance obligations of the Co-Borrower owing to a Cedant and including residual assets of the Segregated Account as described in the Debenture	Bermudian
Co-Borrower	Security Agreement in respect of rights under each Trust Agreement (Aquila), and each Trust Agreement (Co-Borrower)	New York
Co-Borrower	Deposit Account Control Agreement with respect to the General Account (Co-Borrower) and the Aquila Account (Co-Borrower)	Bermudian

- (c) A copy of any other Authorisation or other document, opinion or assurance which the Facility Agent considers to be necessary in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

SCHEDULE 5
UTILISATION REQUEST

From: SPC, LTD.

To: SOAFC I, INC.

Dated:

Dear Sirs / Madams

**SPC, LTD. AND MARKEL CATCO RE LTD. – FACILITY AGREEMENT DATED [•]
2022 (THE "AGREEMENT")**

1. We refer to the Agreement. This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.
2. We wish to borrow Loans on the following terms:

Facilities: Facility A, Facility B and Facility C

Proposed Utilisation Date: [] (or, if that is not a Business Day, the next Business Day)

Amounts: Facility A:

Facility A 2016 Loan - US\$[]
Facility A 2017 Loan - US\$[]
Facility A 2018 Loan - US\$[]
Facility A 2019 Loan - US\$[]
Facility A Aquilo Loan - US\$[]

Facility B:

Facility B 2016 Loan - US\$[]
Facility B 2017 Loan - US\$[]
Facility B 2018 Loan - US\$[]
Facility B 2019 Loan - US\$[]
Facility B Aquilo Loan - US\$[]

Facility C:

Facility C 2016 Loan - US\$[]
Facility C 2017 Loan - US\$[]
Facility C 2018 Loan - US\$[]
Facility C 2019 Loan - US\$[]

Facility C Aquilo Loan - US\$[]

3. We confirm that each condition specified in Clause 4.2 (*Further conditions precedent*) is satisfied on the date of this Utilisation Request.
4. The proceeds of these Loans should be credited to the General Account (Primary Borrower).
5. This Utilisation Request is irrevocable.

Yours faithfully

.....

authorised signatory for
SPC, LTD.

SIGNING PAGE

[Signature blocks to be inserted]