

EXECUTION VERSION

**AGREEMENT FOR THE SALE AND PURCHASE OF CATALINA  
HOLDINGS (BERMUDA) LTD.**

DATED 10 October 2017

**THE INSTITUTIONAL SELLERS**

**AND**

**THE MANAGEMENT SELLERS**

**AND**

**THE PURCHASER**

**ALLEN & OVERY**

Allen & Overy LLP

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THIS AGREEMENT is made on 10 October 2017

**BETWEEN:**

- (1) **THE PERSONS** whose names and addresses are set out in Part 1 of Schedule 1 (each an **Institutional Seller** and together the **Institutional Sellers**);
- (2) **THE PERSONS** whose names and addresses are set out in Part 2 of Schedule 1 (each a **Management Seller** and together the **Management Sellers**); and
- (3) **AVALON ACQUISITION, LLC**, a limited liability company registered in the Cayman Islands, whose registered office is at Walkers Corporate Limited, Cayman Corporate Centre, 27 Hospital Road, George Town, Grand Cayman KY1-9008 (the **Purchaser**).

**BACKGROUND:**

- (1) Each Institutional Seller has agreed to sell the Shares held by it and the Purchaser has agreed to purchase such Shares on the terms, and subject to the conditions, set out in this agreement.
- (2) Each Management Seller has agreed to sell certain of its Shares (and will retain the Retained Shares) and the Purchaser has agreed to purchase such Shares on terms, and subject to the conditions, set out in this agreement.

**IT IS AGREED** as follows:

**1. INTERPRETATION**

- 1.1 In addition to terms defined elsewhere in this agreement, the definitions and other provisions in Schedule 4 apply throughout this agreement, unless the contrary intention appears.
- 1.2 In this agreement, unless the contrary intention appears, a reference to a clause, subclause or schedule is a reference to a clause, subclause or schedule of or to this agreement. The schedules, and the recitals in the Background section, form part of this agreement.
- 1.3 The headings in this agreement do not affect its interpretation.
- 1.4 Where any obligation, representation, warranty, undertaking, covenant or indemnity in this agreement is expressed to be made, undertaken or given by two or more of the Sellers, they shall (unless otherwise expressly provided to the contrary) be severally (and not jointly or jointly and severally) responsible in respect of it.

**2. SALE AND PURCHASE**

- 2.1 Each Institutional Seller shall sell, as legal and beneficial owner, and the Purchaser shall purchase those Shares set out opposite the name of such Institutional Seller in column (3) of Part 1 and column (10) of Part 2 of the Master Allocation Schedule, on the terms set out in this agreement.
- 2.2 Each Management Seller shall sell, as legal and beneficial owner, and the Purchaser shall purchase those Shares set out opposite the name of such Management Seller in column (7) of Part 1 of the Master Allocation Schedule.
- 2.3 Each Seller shall sell its Shares free from all Encumbrances and together with all rights attaching to them including the right to receive all distributions and dividends declared, paid, made or accruing after Completion, on the terms set out in this agreement.

- 2.4 The consideration for the sale of the Shares shall be determined in accordance with clause 3.
- 2.5 Each Seller waives all rights of pre-emption which it may have (whether under the SSA, the Company's constitutional documents or otherwise), including any rights created after the date of this agreement and on or before Completion in respect of the transfer to the Purchaser of the Shares. Each Institutional Seller agrees that an Exit Notice (as defined in the SSA) shall not be required in respect of the transfer to the Purchaser of the Shares under this agreement and each Institutional Seller waives any and all rights that it may have under clause 8 of the SSA to restrict the transfer to the Purchaser of the Shares under this agreement. Notwithstanding the foregoing, in the event that this agreement is terminated for any reason and the transactions contemplated hereby are not consummated, the Institutional Sellers and the Management Sellers acknowledge that the waiver referred to above shall no longer be effective and that clause 8 of the SSA shall be reinstated and shall remain binding on the parties to the SSA.
- 2.6 Subject to clause 6.5, neither the Sellers nor the Purchaser shall be obliged to complete the sale or purchase of any of the Shares unless all of the Shares to be sold under this agreement are sold and purchased simultaneously.

### 3. CONSIDERATION

- 3.1 The aggregate consideration for the Shares shall be an amount equal to the Aggregate Consideration apportioned as follows:
- (a) for the Initial D Ordinary Shares the aggregate consideration shall be the Initial Preferred Consideration;
  - (b) for the Additional D Ordinary Shares (if any) the aggregate consideration shall be the Additional Preferred Consideration; and
  - (c) for the A Ordinary Shares, B Ordinary Shares and C Ordinary Shares together, the aggregate consideration shall be the Ordinary Consideration,

less an amount equal to the aggregate of the Net Notified Leakage (if any) that is to be deducted from the Initial Preferred Consideration, Additional Preferred Consideration and Ordinary Consideration (as the case may be) pursuant to clause 7.4.

- 3.2 The Aggregate Consideration less an amount equal to the aggregate of the Net Notified Leakage (if any) that is to be deducted pursuant to clause 7.4 shall be satisfied by the Purchaser as follows:
- (a) in respect of the Institutional Sellers, in cash at Completion in accordance with clause 6.3(b) and Part 2 of Schedule 3; and
  - (b) in respect of the Management Sellers that part of the Ordinary Consideration set out opposite the name of the relevant Management Seller in column (11) of Part 1 of the Master Allocation Schedule shall be paid in cash at Completion in each case in accordance with clause 6.3(b) and Part 2 of Schedule 3,

and shall be apportioned between the Shares to be sold by each Seller as set out opposite that Seller's name in columns (8) to (12) of Part 1 and columns (4) and (9) of Part 2 (as applicable) of the Master Allocation Schedule. For the avoidance of doubt, the Purchaser is not required to make any payment in cash for the part of the Ordinary Consideration attributable to the Retained Shares as shown opposite the name of the relevant Management Seller in column (12) of Part 1 of the Master Allocation Schedule, which will be retained by the Management Sellers. The Purchaser shall not be

concerned with, and shall have no liability for, the allocation of the Aggregate Consideration among the Sellers.

- 3.3 Save for the Aggregate Consideration payable under clause 3, if any Seller and/or the Purchaser is required by law to make a deduction or withholding in respect of any sum payable under this agreement (including any deduction or withholding applicable to additional sums payable under this clause 3.3), the relevant Seller and/or Purchaser (as the case may be) shall, at the same time as the sum which is the subject of the deduction or withholding is payable, make a payment to the relevant Seller and/or the Purchaser (as the case may be) of such additional amount as shall be required to ensure that, after making or allowing for all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this clause 3.3), the net amount received by the relevant Seller and/or the Purchaser (as the case may be) will equal the full amount which would have been received by it had no such deduction or withholding been required to be made.
- 3.4 Any payment made by a Seller to the Purchaser under this agreement or the Warranty Deed (whether as damages for breach, under a covenant to pay or otherwise) shall, to the extent possible, be deemed to reduce the consideration paid for the Shares sold by that Seller.
- 3.5 For all applicable tax purposes, each party to this Agreement acknowledges that it intends to treat the entire Aggregate Consideration as the purchase price paid for the Shares in the amounts and in the manner described in this Agreement; provided that to the extent any portion of the Aggregate Consideration is required to be treated as interest under applicable United States tax laws, the parties intend to treat the interest as "portfolio interest" within the meaning of sections 871 and 881 of the United States Internal Revenue Code of 1986. To the extent permitted by applicable law, no party to this Agreement shall take any reporting or withholding position that is inconsistent with such intended treatment, and the parties shall cooperate reasonably to reduce the imposition of withholding tax on any payment of the Aggregate Consideration hereunder.

#### **4. CONDITIONS PRECEDENT**

- 4.1 The sale and purchase of the Shares under this agreement is conditional upon:
  - (a) receipt of the following documents and/or items or taking of the following actions in Bermuda:
    - (i) confirmation from the BMA to the Purchaser that the BMA has no objection to the Purchaser and (if applicable) the Purchaser Controllers becoming shareholder controllers (within the meaning of the Insurance Act and the Exchange Control Legislation) of Catalina General pursuant to Section 30D of the Insurance Act or, in the absence of such confirmation of no objection having been received, the period under Section 30(2)(b) of the Insurance Act within which the BMA may serve a notice of objection under Section 30F of the Insurance Act having elapsed without the BMA having served any notice of objection; and
    - (ii) confirmation from the BMA to Catalina General that the BMA has no objection to Catalina General effecting a material change pursuant to Section 30JB of the Insurance Act or, in the absence of such confirmation of no objection having been received, the period under Section 30JB(4)(b) of the Insurance Act within which the BMA may serve a notice of objection under Section 30JC of the Insurance Act having elapsed without the BMA having served any notice of objection;

- (b) all necessary consents and approvals in accordance with the provisions of the Exchange Control Legislation to the acquisition by the Purchaser and (if applicable) the Purchaser Controllers of the Shares pursuant to this agreement having been obtained;
- (c) in respect of the Purchaser and (if applicable) the Purchaser Controllers acquiring control (within the meaning of section 181 of FSMA) of each of the Regulated UK Subsidiaries pursuant to this agreement, the PRA:
  - (i) having given notice in writing that it has determined to approve such acquisition of control for the purpose of section 189(4)(a) of FSMA; or
  - (ii) being treated as having approved such acquisition of control by virtue of section 189(6) of FSMA;
- (d) FINMA having confirmed in writing:
  - (i) in accordance with Art. 21. Sec. 2 and 4 ISA, that it unconditionally approves or has no objection to the Purchaser and (if applicable) the Purchaser Controllers acquiring an indirect participation above the applicable holding threshold values of 10%, 20%, 33%, and 50% of the capital or voting rights in Glacier Reinsurance AG pursuant to this agreement;
  - (ii) in accordance with Art. 21. Sec. 3 and 4 ISA, that it unconditionally approves or has no objection to Apollo, Caisse and Ontario selling their indirect participations resulting in a reduction below the applicable holding threshold values of 10%, 20%, 33%, and 50% of the capital or voting rights in Glacier Reinsurance AG pursuant to this agreement; and
  - (iii) in accordance with Art. 4 Sec. 2 lit. f ISA and Art. 5 Sec. 2 ISA, that it unconditionally approves or has no objection to the changes to the regulatory business plan of Glacier Reinsurance AG in connection with changes in the indirect qualified participants in Glacier Reinsurance AG as a result of the transactions contemplated by this agreement (or in the absence of such approval or non-objection, the four week period within which FINMA may, in accordance with Art. 5 Sec. 2 ISA, initiate an investigation regarding such changes having elapsed without FINMA having initiated such investigation);
- (e) the Colorado DOI having given all necessary consents and approvals in accordance with the Applicable Law of Colorado (including state insurance law) to the Purchaser and (if applicable) the Purchaser Controllers acquiring an indirect interest in National Home Insurance Company (A Risk Retention Group) pursuant to this agreement;
- (f) appropriate notification or application for approval, such as is mandatory under New York law or regulation, including but not limited to Article 15 of the New York Insurance Law, has been made in the State of New York; the approval of the Purchaser and (if applicable) the Purchaser Controllers acquiring an indirect interest in Alea North America Insurance Company pursuant to this agreement has been granted by the Superintendent of Financial Services, all applicable waiting periods (and any extensions thereof) under applicable state law or regulation have expired or otherwise been terminated and all mandatory approvals under such laws must have been obtained, and such approvals are in full force and effect;
- (g) appropriate notification or application for approval, such as is mandatory under Connecticut law or regulation, including but not limited to Part V of Chapter 698 of Title 38a of the Connecticut General Statutes, has been made in the State of Connecticut; the approval of the

Purchaser and (if applicable) the Purchaser Controllers acquiring an indirect interest in Sparta Insurance Company pursuant to this agreement has been granted by the Connecticut Insurance Commissioner, all applicable waiting periods (and any extensions thereof) under applicable state law or regulation have expired or otherwise been terminated and all mandatory approvals under such laws have been obtained, and such approvals are in full force and effect;

- (h) the DISB having given all necessary consents and approvals in accordance with the Applicable Law of the District of Columbia (including insurance laws) to the Purchaser's and (if applicable) the Purchaser Controllers' indirect acquisition of control of ProBuilders Specialty Insurance Company, RRG pursuant to this agreement;
- (i) the California DOI, in accordance with Applicable Law of California (including state insurance law), having
  - (i) given all necessary permits, consents, approvals, orders, authorizations or waivers to the Purchaser and (if applicable) the Purchaser Controllers acquiring an indirect interest in each of the Regulated California Subsidiaries pursuant to this agreement; and/or
  - (ii) either indicated its express non-objection to, taken no action in respect of, or deemed to have given its approval, permission or consent by waiver or passage of all applicable periods of time to the Purchaser and (if applicable) the Purchaser Controllers acquiring an indirect interest in each of the Regulated California Subsidiaries pursuant to this agreement,
- (j) in respect of the notification by the Purchaser to the CBI of the proposed acquisition by the Purchaser and (if applicable) the Purchaser Controllers of a qualifying holding (as defined in the European Union (Insurance and Reinsurance) Regulations 2015 (of Ireland)) in Catalina Insurance Ireland DAC (CII) pursuant to this agreement, either:
  - (i) the CBI's assessment period in relation to the acquisition having ended and the CBI not having notified the Purchaser that it opposes the acquisition; or
  - (ii) the CBI having notified the Purchaser that it does not oppose the acquisition;
- (k) the parties having received approval under the Competition Act 2002 as amended (the **Irish Competition Act**) pursuant to the occurrence of one of the following events:
  - (i) notification of a determination of the Irish Competition and Consumer Protection Commission (the CCPC) under Section 21(2)(a) or Section 22(3)(a) of the Irish Competition Act that the sale and purchase of the Shares under this Agreement may be put into effect; or
  - (ii) the period specified in Section 21(2) of the Irish Competition Act having elapsed without the CCPC having informed the parties of its determination under Section 21(2)(a) or (b) of the Irish Competition Act; or
  - (iii) the period specified in Section 19(1)(d) of the Irish Competition Act having elapsed without the CCPC having informed the parties of its determination under Section 22 of the Irish Competition Act; or
  - (iv) notification of a determination from the CCPC under Section 22(3)(c) of the Irish Competition Act that the sale and purchase of the Shares under this Agreement

may be put into effect subject to one or more conditions specified by the CCPC being complied with by the Purchaser;

- (l) the Purchaser shall have received binding equity financing commitments greater than or equal to an amount calculated in accordance with the below formula, and shall have delivered to the Non-Apollo Sellers and the Management Representative duly executed Equity Commitment Letters (or duly executed Equity Commitment Letter Accession Deeds in respect of a duly executed Equity Commitment Letter) in respect of such binding equity financing commitments:

$$F = A + B$$

Where:

**F** = the minimum amount of binding equity commitments required in order to satisfy the condition in this Clause 4.1(l);

**A** = Ordinary Consideration + Initial Preferred Consideration + Maximum Additional Ordinary Consideration;

**B** = Notified Additional Preferred Consideration;

**Maximum Additional Ordinary Consideration** = the Additional Ordinary Consideration payable if Completion were to take place 5 Business Days after the date identified in limb (b) of the definition of Long Stop Date; and

**Notified Additional Preferred Consideration** = the Amount of Additional Preferred Consideration payable in respect of any Additional Funding Preference Shares issued (or to be issued) in connection with a Proposed Transaction (as defined in the Bye-laws) approved under the SSA and/or Bye-laws as at the earlier of (i) the Financing Long Stop Date, or (ii) such earlier date on which the Purchaser shall have received binding equity commitments for an amount greater than or equal to A; and

- (m) the Company having received confirmation from the RCF Agent that:
- (i) the mandatory prepayment and cancellation requirements set out under clause 8.1 of the RCF Facility Agreement are waived in respect of the Transaction by all RCF Lenders; and
  - (ii) any other default, misrepresentation or other breach of the RCF Facility Agreement and/ or the other Finance Documents (as defined under the RCF Facility Agreement), or any requirement to make any prepayment or cancel any Commitment under any Finance Document (as defined under the RCF Facility Agreement), which in each case may occur as a result of the acquisition of the Shares pursuant to the Transaction are waived by all RCF Lenders,

(paragraphs (i) and (ii) of this clause 4.1(m), being the **RCF CoC Waivers**) and no other onerous obligations or conditions are imposed on Company under, in connection with or otherwise in exchange for the RCF CoC Waivers (provided that reasonable and customary waiver fees imposed by the RCF Lenders, and reasonable and customary costs and expenses of the RCF Agent, RCF Lenders or RCF Security Trustee that are charged to the Company, shall not be deemed to be onerous obligations or conditions).



4.2 The Purchaser shall:

- (a) use all reasonable endeavours to procure that the Condition set out in clause 4.1(1) (**Financing Condition**) is satisfied as soon as practicable and, in any event, before the Financing Long Stop Date. For the avoidance of doubt, the Purchaser shall be deemed to have satisfied its obligation to use all reasonable endeavours provided it has engaged with potential investors in an appropriate marketing and solicitation exercise (being a marketing and solicitation exercise that is consistent with the past practices of the Purchaser's Group, taking into account the nature of the transaction, the nature of the Group, and the amount of financing required); and
- (b) keep the Non-Apollo Sellers and Management Representative promptly informed of all material developments in relation to, and the status of its efforts to procure, the equity financing commitments required to satisfy the Financing Condition, including without limitation, providing weekly updates to the Non-Apollo Sellers and Management Representative (by email, and if requested by the Non-Apollo Sellers and Management Representative, by teleconference), on the status of such efforts.

4.3 The parties shall cooperate in good faith for the purposes of satisfying the Condition set out in clause 4.1(m) (the **RCF CoC Waiver Condition**) and, subject to the Purchaser complying with its obligations under clause 4.4, the Sellers shall use all reasonable endeavours to procure that the RCF CoC Waiver Condition is satisfied as soon as reasonably practicable and, in any event, before the Financing Long Stop Date. In particular, the Sellers shall procure that the Company shall make a request to the RCF Agent to seek the RCF CoC Waivers, as soon as reasonably practicable, and in any event, within 5 Business Days following the date of this agreement. The parties acknowledge and agree that:

- (a) the Sellers' reasonable endeavours obligation under this clause shall not extend to require the RCF CoC Waiver Condition be satisfied prior to the Financing Long Stop Date if the RCF Agent or the RCF Lenders require:
  - (i) that the request in respect of the RCF CoC Waivers only be made; or
  - (ii) any information, explanations or clarifications, that may only be provided, following satisfaction of the Financing Condition;
- (b) the Sellers shall not be required to provide any information, explanations or clarifications in connection with know your client and/or anti money laundering checks of the RCF Lenders in relation to the Purchaser, any Purchaser Controllers, any Purchaser Investor and/or the provider of any equity financing to the Purchaser (and the obligation to provide such information shall be that of the Purchaser, subject to clause 4.4); and
- (c) any reasonable and customary waiver fees imposed by the RCF Lenders, and any reasonable and customary costs and expenses of the RCF Agent, RCF Lenders or RCF Security Trustee in connection with the RCF CoC Waivers, shall be for the account of, and paid by, the Company.

4.4 The Purchaser shall:

- (a) provide all information reasonably requested by the Company to enable it to make a request to the RCF Agent to obtain the RCF CoC Waivers, as soon as reasonably practicable and in any event within 3 Business Days following the date of this agreement;

- (b) provide all information, explanations or clarifications that it is able to provide and is reasonably requested by a RCF Lender in connection with the RCF CoC Waivers as soon as reasonably practicable, and in any event, within 5 Business Days of the date of such request;
- (c) accept and agree to, and shall use all reasonable endeavours to procure that each member of the Purchaser Group shall accept and agree to, any reasonable requirement of the RCF Lenders to obtain the RCF CoC Waivers (and, for the avoidance of doubt, any requirement that is customary shall be deemed to be reasonable); and
- (d) use all reasonable endeavours to assist the Company procure the RCF CoC Waivers as soon as reasonably practicable and, in any event, within 30 Business Days following satisfaction of the Financing Condition.

4.5 The parties shall cooperate in good faith, and the Purchaser shall, at its own cost, use all reasonable endeavours to procure that the Conditions set out in subclauses 4.1(a) to 4.1(j) (together, the **Regulatory Approvals**) are satisfied as soon as practicable and, in any event, before the Long Stop Date. In particular (and without prejudice to the generality of the foregoing) the Purchaser shall:

- (a) make all necessary applications and notifications required to obtain the Regulatory Approvals as soon as reasonably practicable after the date on which the Financing Condition is satisfied and in any event within 10 Business Days of the date of satisfaction of the Financing Condition;
- (b) respond to any request from a Regulatory Authority for further information, explanation or clarification and providing all such information as any relevant Regulatory Authority may request as soon as reasonably practicable of the date of the request; and
- (c) offer, accept and agree to, and shall procure that each member of the Purchaser's Group shall offer, accept and agree to, any conditions, obligations, undertakings and/or modifications and take such other steps that is required by any Regulatory Authority or which is otherwise necessary in order to obtain the Regulatory Approvals (but which shall not, without the prior written approval of the Non-Apollo Sellers and the Management Representative, include any amendment, variation or modification of the terms of this agreement or any other Transaction Document) and allow Completion to occur as soon as possible and in any event prior to the Long Stop Date.

4.6 For the purposes of clause 4.5(c), and notwithstanding anything to the contrary in this Agreement, the Purchaser, its Affiliates, any Purchaser Controller, and the Company and its subsidiaries shall not be obligated to take or refrain from taking or agree to take or refrain from taking any action or accept or agree to any condition, limitation, restriction or requirement that, individually or in the aggregate with any other such conditions, limitations, restrictions or requirements, would or would be reasonably likely to result in a Burdensome Condition.

A "**Burdensome Condition**" means a condition limitation, restriction or requirement that:

- (a) results in a negative effect on:
  - (i) the business or the assets, liabilities, properties) operations, results of operations or condition (financial or otherwise) of the Group in an amount or value in excess of \$20 million; or
  - (ii) the financial benefits, taken as a whole, which the Purchaser reasonably expects to derive from the consummation of the Transaction in an amount or value in excess of \$10 million; or

- (b) includes any requirement to sell, divest, operate in a specified manner (which is materially adverse to current operations), hold separate (other than any hold separate requirement pending Completion) or discontinue or limit in any material respect, before or after Completion, any material assets, liabilities, businesses, operations or interest in any assets or businesses of the Purchaser, the Purchaser's Affiliates or Purchaser Controllers (but in each case excluding any assets, liabilities, businesses, operations or interest in any assets or businesses of a Purchaser Investor), the Company or its subsidiaries; or
  - (c) includes any requirement to sell, divest, operate in a specified manner (which is adverse to current operations to a non-trivial extent), hold separate (other than any hold separate requirement pending Completion) or discontinue or limit in any non-trivial respect, before or after Completion, any assets, liabilities, businesses, operations or interest in any assets or businesses of any Purchaser Investor.
- 4.7 The Purchaser shall keep the Non-Apollo Sellers and the Management Representative promptly informed of, and shall (to the extent practicable) consult with the Non-Apollo Sellers and the Management Representative regarding, the progress of obtaining the Regulatory Approvals. The Purchaser shall promptly provide to the Non-Apollo Sellers and the Management Representative upon receipt copies of all correspondence received from any Regulatory Authority in connection with the Regulatory Approvals and shall provide the Non-Apollo Sellers and the Management Representative with final drafts of all submissions, notifications and filings addressed to or provided to any relevant Regulatory Authority in connection with obtaining the Regulatory Approvals prior to the filing or submission thereof (and a copy of the final form application submitted to any Regulatory Authority) at such time as will allow the Non-Apollo Sellers and Management Representative a reasonable opportunity to provide reasonable comments and for the Purchaser to take account of such reasonable comments on such final drafts prior to their submission.
- 4.8 The Purchaser shall give the Non-Apollo Sellers and the Management Representative reasonable notice of any meetings or other conferences to be held with any Regulatory Authority in connection with the Transaction. The Non-Apollo Sellers and the Management Representative shall have the right to attend or otherwise participate in any such meeting or conference (save to the extent that the relevant Regulatory Authority expressly requests that the Non-Apollo Sellers or the Management Representative should not be present at the meeting or conference or part or parts of the meeting or conference).
- 4.9 Notwithstanding anything to the contrary in either clause 4.7 or clause 4.8, the Purchaser shall not be required to disclose to the Non-Apollo Sellers or the Management Representatives:
- (a) any information that, in its reasonable judgment, would (x) result in the disclosure of any trade secrets of third parties or (y) violate any of its contractual obligations or obligations with respect to confidentiality owing to third parties; or
  - (b) any privileged information or confidential competitive information,
- provided that such information is provided to the Sellers' Solicitors on an attorney only basis.
- 4.10 The Purchaser shall, at its own cost, use its best endeavours, and shall take any and all steps necessary, to procure that the Condition set out in subclause 4.1(k) (the **Merger Control Condition**) is satisfied as soon as practicable and, in any event, before the Long Stop Date. In particular (and without prejudice to the generality of the foregoing) the Purchaser shall:
- (a) take all steps necessary, including making all necessary filings in a form reasonably acceptable to the Non-Apollo Sellers and the Management Representative as soon as

reasonably practicable after the date of this agreement and in any event within 15 Business Days of the date of this agreement;

- (b) not enter into (and shall procure that no member of the Purchaser's Group enters into) any other agreement or arrangement where the effect of any such agreement or arrangement is likely to affect, delay, impede or in any respect prejudice the fulfilment of the Merger Control Conditions;
- (c) offer, accept and agree to, and shall procure that each member of the Purchaser's Group shall offer, accept and agree to, any conditions, obligations, undertakings and/or modifications and take such other steps (including, without limitation to the foregoing: (i) selling, disposing of or holding separate and agreeing to sell or dispose of, assets, categories of assets or businesses of the Group or any member of the Purchaser's Group; (ii) terminating or creating relationships, contractual rights or obligations of the Group or any member of the Purchaser's Group; (iii) giving effect to any change or restructuring of the Group or the Purchaser's Group; (iv) taking or committing to take any action or mitigation measures that would limit the ability of any member of the Purchaser's Group to retain or hold any business, assets, equity interests, product lines or properties of the Group or any member of the Purchaser's Group; and (v) entering into any agreements or making any filings with any Competition Authority in connection with the foregoing) (which shall not, without the prior written approval of the Non-Apollo Sellers and the Management Representative, include any amendment, variation or modification of the terms of this agreement or any other Transaction Document) that is required by any Competition Authority or which is otherwise necessary in order to procure the satisfaction of the Merger Control Conditions and allow Completion to occur as soon as possible and in any event prior to the Long Stop Date;
- (d) co-operate with the Sellers and facilitate the procurement of any filing, authorisation, consent or approval of or with any Competition Authority that is required in connection with the execution of this agreement and with Completion (including providing, in accordance with relevant regulatory timeframes, any information or documentary material requested by any Competition Authority in connection with any review of or relating to the Transaction); and
- (e) defend through litigation any claim asserted in court by any party, so as to avoid the entry of, or to have vacated or terminated, any decree, order or judgment (whether temporary, preliminary or permanent) that would prevent Completion from occurring prior to the Long Stop Date.

4.11 The Purchaser shall:

- (a) promptly (and in any event within one Business Day) notify the Non-Apollo Sellers and the Management Representative of any communication (whether written or oral) from a Competition Authority;
- (b) communicate with any Competition Authority or any other relevant third party only after prior consultation with the Non-Apollo Sellers, the Management Representative and their advisors (and reflecting any reasonable comments and requests of the Non-Apollo Sellers, the Management Representative and their advisors);
- (c) give the Non-Apollo Sellers and the Management Representative reasonable notice of all meetings with a Competition Authority; and give the Non-Apollo Sellers and the Management Representative reasonable opportunity to participate at such meetings (save to the extent that a Competition Authority expressly requests that the Non-Apollo Sellers or the

Management Representative should not be present at the meeting or part or parts of the meeting);

- (d) give the Non-Apollo Sellers and the Management Representative reasonable notice of all telephone calls with a Competition Authority and give the Non-Apollo Sellers and the Management Representative reasonable opportunity to participate in such telephone calls (save to the extent that a Competition Authority expressly requests that the Non-Apollo Sellers or the Management Representative should not be present at the telephone call or part or parts of the telephone call); and
  - (e) provide the Non-Apollo Sellers and the Management Representative with final drafts of all written communications intended to be sent to a Competition Authority, give the Non-Apollo Sellers and the Management Representative a reasonable opportunity to comment thereon, not send such communications without the prior approval of the Non-Apollo Sellers and the Management Representative and provide the Non-Apollo Sellers and the Management Representative with final copies of all such communications subject in each case to exclusion by the Purchaser of information that it reasonably considers to be confidential to it (provided that such confidential information is provided to the Sellers' Solicitors on an attorney only basis).
- 4.12 Each Seller shall use reasonable endeavours to co-operate with the Purchaser (and each other Seller) and provide such assistance as is reasonably necessary (and that it is reasonably able to provide), and to provide to any Regulatory Authority or Competition Authority such information as is reasonably necessary and that it is reasonably able to provide (to the extent permitted by applicable law and regulation, and subject to commercial sensitivity, any duty of confidentiality owed to any third party and any such information being privileged), in each case to ensure that the Regulatory Approvals and the Merger Control Conditions are satisfied as soon as is reasonably practicable.
- 4.13 Each of the Sellers shall use all reasonable endeavours to procure that the Conditions set out in subclauses 4.1(a)(i) and 4.1(a)(ii) (the **Bermuda Regulatory Approvals**) are satisfied on or before the Long Stop Date. The exercise of reasonable endeavours as required pursuant to this clause shall include, without limitation making all requisite applications and notifications required to obtain the Bermuda Regulatory Approvals as soon as practicable, attending all necessary meetings, responding as promptly as practicable to any request for further information, explanation or clarification and providing all such necessary information as the BMA may request.
- 4.14 The parties shall co-operate in good faith for the purposes of obtaining the Bermuda Regulatory Approvals and (to the extent permitted by applicable law and regulation and subject to commercial sensitivity, any duty of confidentiality owed to any third party and any such information being privileged) shall provide each other with all such information as may be reasonably necessary in connection with any filing or application to be made by the parties for the purposes of obtaining the Bermuda Regulatory Approvals.
- 4.15 If, at any time, the Purchaser becomes aware of a fact or circumstance which would or might reasonably be expected to result in it becoming unable to comply with or satisfy a relevant Condition in any respect, it shall promptly inform the Non-Apollo Sellers and the Management Representative of the matter in writing.
- 4.16 If, at any time, any Seller becomes aware of a fact or circumstance which would or might reasonably be expected to result in it becoming unable to comply with or satisfy any of the Bermuda Regulatory Approvals, it shall promptly inform the Purchaser of the matter in writing.

- 4.17 The Purchaser shall notify the other parties of the satisfaction of each Condition as soon as possible after it becomes aware that such Condition has been satisfied and in any event within three Business Days of becoming so aware.
- 4.18 The Purchaser, Non-Apollo Sellers and Management Representative may, by agreement in writing, waive any or all of the Conditions which are capable of waiver (in whole or in part) at any time on or before the Financing Long Stop Date (in relation to the Financing Condition) or the Long Stop Date (in relation to the Conditions other than the Financing Condition).
- 4.19 If:
- (a) the Financing Condition is not satisfied or waived in accordance with this agreement on or before the Financing Long Stop Date, or the Purchaser notifies the Non-Apollo Sellers and Management Representative that in its judgment (acting reasonably) it has become incapable of satisfaction on or before the Financing Long Stop Date; or
  - (b) the Conditions (other than the Financing Condition) are not satisfied or waived in accordance with this agreement on or before the Long Stop Date, or become incapable of satisfaction on or before the Long Stop Date,

this agreement shall automatically terminate. If this agreement terminates in accordance with this clause 4.19, except for this clause 4.19 and the Surviving Provisions, all the provisions of this agreement shall lapse and cease to have effect, but neither the lapsing of those provisions nor their ceasing to have effect shall affect any accrued rights or liabilities of any party in respect of damages for non-performance of any obligation falling due for performance prior to such lapse and cessation.

## **5. PRE-COMPLETION UNDERTAKINGS**

- 5.1 Until Completion each Management Seller undertakes to the Purchaser on a several basis that he shall use all his rights and powers available to him as a shareholder, director, officer, member, partner and/or employee (as applicable) of any Group Company, and save to the extent that such action constitutes Permitted Leakage or is expressly provided for in the Transaction Documents, to procure that, other than with the prior written consent of the Purchaser:
- (a) subject to clause 5.3, the business of the Group is carried on in the ordinary course, which shall include any action taken in connection with or for the purposes of effecting a Permitted Transaction; and
  - (b) subject to clause 5.3, no Group Company shall:
    - (i) modify any material rights attached to any shares or other securities in a Group Company;
    - (ii) make any increase or reduction or other alteration of any of its securities (including share capital) or grant any option to subscribe for or acquire any of its securities (including share capital) (other than to another Group Company);
    - (iii) admit any person as a member or partner of a Group Company (other than a person who is already a member of any other Group Company);
    - (iv) create, or allow to come into being (other than customary Encumbrances arising in the ordinary course of business or by operation of law), an Encumbrance over any shares or uncalled capital of a Group Company or any asset of a Group Company with the exception of any borrowings incurred under paragraph 5.1(b)(viii) below;

- (v) agree to participate in a partnership, consortium, association or joint venture other than any partnership, consortium, association or joint venture in which a Group Company participates as at the date of this Agreement;
- (vi) acquire an interest in any company (other than investments in the ordinary course of business or via a Permitted Transaction);
- (vii) other than pursuant to a transfer of Shares in accordance with the Bye-Laws and the SSA, transfer, or approve the transfer of, shares in a Group Company;
- (viii) borrow any monies or incur any indebtedness other than:
  - (A) trade credit or finance leases in the ordinary course of trading;
  - (B) indebtedness incurred in respect of the RCF Facility Agreement;
  - (C) indebtedness incurred for the purposes of financing any Permitted Transaction, including the issuance of any subordinated debt by any Group Company for the purposes of financing any such Permitted Transaction; and
  - (D) any interest or fees incurred in respect of existing indebtedness;
- (ix) enter into or terminate any material contract other than where such contracts are replaced or renewed on substantially similar terms. For the purposes of this clause 5.1(b)(ix), 'material' means any contract involving expenditure, income or the incurrence of liabilities in excess of \$10 million or that exceeds the amount approved in the relevant annual budget by an amount of \$2 million or more or which has a term in excess of 3 years or which is projected to be loss making. For the avoidance of doubt, material contracts do not include insurance or reinsurance policies or contracts which has been issued or entered into in the ordinary course of business by a Group Company;
- (x) other than in the ordinary course of business, start or settle any court, tribunal, arbitration or other dispute resolution proceedings where the claim the subject of such proceeding: (A) is uninsured and the value or potential liability of that claim to any Group Company or the Group is more than \$2 million; or (B) is a class action claim or a claim of bad faith;
- (xi) change existing accounting procedures or practices, except where required by applicable accounting standards, or change its auditors, accounting reference date or registered name;
- (xii) add to, remove or otherwise change in any material respect the terms and conditions of employment or engagement or membership, or change in any material respect remuneration policies or implement new incentive/bonus arrangements or benefit arrangements for its members or Employees;
- (xiii) employ or engage any new employee whose fixed allocation of profits or salary exceeds \$250,000 per annum or terminate or give notice to terminate the employment of any existing employee whose fixed allocation of profits or salary exceeds \$250,000 per annum, other than in circumstances justifying summary dismissal;
- (xiv) alter its tax residence;

(xv) agree to do any of the actions referred to in subclause 5.1(b)(i) to 5.1(b)(xiv) above.

5.2 Subject to clause 5.3, each Institutional Seller undertakes to the Purchaser on a several basis that prior to Completion it shall not exercise any rights as a shareholder of the Company to approve any actions taken by a Group Company contrary to clause 5.1.

5.3 Clauses 5.1 and 5.2 shall not operate to restrict or prevent:

- (a) any action taken at the request of the Purchaser or with its prior approval;
- (b) the Group from effecting any Permitted Transaction;
- (c) any matter reasonably undertaken by any Group Company in an Emergency Situation with the intention of minimising any adverse effect of the Emergency Situation of any Group Company (and of which the Purchaser will be promptly notified);
- (d) any action taken in accordance with any contract or arrangement entered into by any Group Company prior to the date of this agreement (including, without limitation, the disposal of Danielson National Insurance Company);
- (e) any act or conduct which any Group Company is required to take, or omit to take, as a result of, or in order to comply with, any applicable law or regulation of any applicable Regulatory Authority or Competition Authority;
- (f) any increase in emoluments of any category of Employees of any Group Company where such increase is made in accordance with the terms applicable to such Employees on the date of this agreement, ordinary course of business and normal past practice of the relevant employing Group Company;
- (g) any payment or accrual of any dividend or bonus to any Management Seller out of the Plan Pool, pursuant to the Senior Management Incentive Plan in accordance with normal past practice;
- (h) any increase, reduction, reorganisation or other alteration of the share capital of the Company contemplated by clause 5.4 and/or by clause 5.5, any payment or accrual of any Preference Capital Return on the Preference Shares contemplated by clauses 5.4 and 5.5, and any other matter expressly contemplated or provided for in this agreement or another Transaction Document;
- (i) the transfer of the business of KX Reinsurance Company Limited and OX Reinsurance Company Limited to Catalina London Limited by way of a transfer under Part VII of FSMA; or
- (j) the Company paying any Seller Transaction Costs.

5.4 Prior to Completion, the Company may:

- (a) issue to any Institutional Seller additional Preference Shares to satisfy any accrued and unpaid Preference Capital Return in respect of the Preference Shares held by such Institutional Seller as at the date of this agreement calculated up to, and including, the date of Completion (the **Initial Accrued Return Preference Shares**), or otherwise satisfy any such accrued and unpaid Preference Capital Return by way of a deemed increase in the Subscription Price in respect of such Preference Shares;



- (b) convert and reclassify any A Ordinary Shares into Deferred Shares immediately prior to Completion, purchase from the Institutional Sellers all of the Deferred Shares resulting from such conversion for a maximum aggregate consideration of \$0.01 (the **Deferred Shares Buy-Back**) and cancel all such Deferred Shares; and
- (c) convert any and all Preference Shares held by the Institutional Sellers immediately prior to Completion into D Ordinary Shares, issue such D Ordinary Shares to the Institutional Sellers and cancel all of the Preference Shares so converted,

in each case as set out in the Bye-Laws or as otherwise agreed by the Institutional Sellers and Management Representative, provided that:

- (i) the final share capital of the Company as at Completion resulting from the implementation of any of the steps contemplated by this clause 5.4 shall be reflected in the final form Master Allocation Schedule to be delivered to the Purchaser pursuant to clause 6.2;
- (ii) the final share capital is held by the Sellers only and each Institutional Seller shall sell to the Purchaser all of the Shares held by it as at Completion and each Management Seller shall sell to the Purchaser all of the Shares held by him at Completion other than the Retained Shares;
- (iii) none of the steps contemplated by this clause 5.4 shall increase the aggregate amount equal to the sum of the Ordinary Consideration and the Initial Preferred Consideration; and
- (iv) in the case of the conversion of any Additional Preference Shares into Additional D Ordinary Shares, such conversion shall not increase the aggregate amount of the Additional Preferred Consideration.

5.5 Prior to Completion, the Company may:

- (a) issue to any Institutional Seller such number of additional Preference Shares for which such Institutional Seller may subscribe in the period from and including the date of this agreement to but excluding the date of Completion pursuant to its Additional Preference Share Commitments under the SSA, provided that the aggregate number of any such additional Preference Shares shall not exceed the aggregate undrawn Additional Preference Share Commitments of such Institutional Seller as set out in Part 2 of Schedule 2 of the SSA as at the date of this agreement and that such Additional Preference Share Commitments may not be further increased following the date of this agreement (the **Additional Funding Preference Shares**);
- (b) issue to each Institutional Seller (other than Apollo) such number of additional Preference Shares to which it is entitled in accordance with the Bye-laws to satisfy any accrued and unpaid Preference Capital Return in respect of any Additional Funding Preference Shares held by such Institutional Seller immediately prior to Completion calculated up to, and including, the date of Completion (the **Additional Accrued Return Preference Shares**), and in the case of Apollo, any such accrued and unpaid Preference Capital Return may be satisfied in accordance with the Bye-laws by way of a deemed increase in the Subscription Price in respect of any Additional Funding Preference Shares held by Apollo immediately prior to Completion; and
- (c) convert any Additional Preference Shares held by the Institutional Sellers immediately prior to Completion into Additional D Ordinary Shares in accordance with clause 5.4(c).

5.6 Apollo shall exercise such rights and powers available to it as a shareholder of the Company (or investor under the SSA) (including, but not limited to, providing consent under clause 4.4. of the SSA) as necessary and as it is required to take in accordance with the Bye-laws and all applicable law to enable the Company to carry out the steps contemplated by clauses 5.4 and 5.5, and Apollo shall, so far as it lawfully can, exercise such rights and powers as it has as a shareholder of the Company (or investor under the SSA) as are necessary to give effect to those steps contemplated by clauses 5.4 and 5.5 prior to Completion (including without limitation, returning to the Company for cancellation any share certificates which are converted into or reclassified, passing such shareholder resolutions as may be required and executing any Investor Consents required in connection therewith).

## 6. COMPLETION

6.1 Completion shall take place at the offices of BeesMont Law Limited at 11:00am on the fifth Business Day after the date on which the last of the Conditions to be satisfied (or waived) in accordance with clause 4 is so satisfied (or waived), subject to clauses 6.5 and 6.6.

6.2 On or before the third Business Day prior to Completion the Institutional Sellers and the Management Representative shall provide the Purchaser with a final form Master Allocation Schedule, which shall also set out the following amounts calculated by reference to the date of Completion:

- (a) the number of A Ordinary Shares which will be held by each Institutional Seller as at Completion;
- (b) the number of Initial D Ordinary Shares which will be held by each Institutional Seller as at Completion;
- (c) the number of Additional Preference Shares (if any) which will be held by each Institutional Seller immediately prior to Completion (and prior to their conversion into Additional D Ordinary Shares);
- (d) the number of Additional D Ordinary Shares (if any) which will be held by each Institutional Seller as at Completion;
- (e) the aggregate amount of the Ordinary Consideration;
- (f) the aggregate amount of the Initial Preferred Consideration;
- (g) the aggregate amount of any Additional Preferred Consideration;
- (h) the Net Notified Leakage (if any); and
- (i) the aggregate amount of the Notes Repayment Amount.

6.3 At Completion:

- (a) each Seller shall observe and perform the provisions of Part 1 of Schedule 3 to the extent applicable to that Seller; and
- (b) the Purchaser shall observe and perform the provisions of Part 2 of Schedule 3.

6.4 All documents and items delivered at Completion pursuant to clause 6.3(a) and (b) and Schedule 3 shall be held by the recipient to the order of the person delivering the same until such time as Completion shall be deemed to have taken place. Simultaneously with:

- (a) delivery of all documents and items required to be delivered at Completion in accordance with clause 6.3(a) and (b) and Schedule 3 (or the waiver of such delivery by the person entitled to receive the relevant document or item); and
- (b) receipt of an electronic funds transfer to the Sellers' Solicitors Bank Account of the aggregate of the amounts set out in paragraph (a) of Part 2 of Schedule 3,

the documents and items delivered in accordance with clause 6.3(a) and (b) and Schedule 3 shall cease to be held to the order of the person delivering them and Completion shall be deemed to have taken place.

6.5 If one or more of the Non-Apollo Sellers or Management Sellers fail to comply with the provisions of paragraph 1 of Part 1 of Schedule 3, the Purchaser may elect (in addition and without prejudice to all other rights and remedies available to it) by giving notice to the Non-Apollo Sellers and the Management Representative:

- (a) not to complete the purchase of the Shares, in which case the provisions of clause 6.7 shall apply; or
- (b) to fix a new time and date for Completion (being not more than five Business Days after the original date for Completion) in which case the provisions of clauses 6.2 to 6.4 and Schedule 3 shall apply to Completion as so deferred but on the basis that such deferral may occur only once.

For the avoidance of doubt, the Purchaser must proceed to complete the purchase of the Shares if Apollo has failed to comply with the provisions of paragraph 1 of Part 1 of Schedule 3 but the Non-Apollo Sellers and the Management Sellers have otherwise complied with its obligations under those provisions and no other Seller shall have any liability to the Purchaser in respect of such failure by Apollo. This shall not limit or waive any other rights that the Purchaser may have against Apollo in respect of such failure.

6.6 If the Purchaser fails to comply with the provisions of paragraph (a) of Part 2 of Schedule 3, the Non-Apollo Sellers and the Management Representative may jointly elect (in addition and without prejudice to all other rights and remedies available to them) by notice to the Purchaser:

- (a) to complete the sale of the Shares (so far as practicable having regard to the Purchaser's failure to comply with those provisions);
- (b) not to complete the sale of the Shares, in which case the provisions of clause 6.7 shall apply; or
- (c) to fix a new time and date for Completion (being not more than five Business Days after the original date for Completion) in which case the provisions of clauses 6.2 to 6.4 and Schedule 3 shall apply to Completion as so deferred but on the basis that such deferral may occur only once.

- 6.7 If the Non-Apollo Sellers and the Management Representative jointly elect or the Purchaser elects not to complete the purchase or sale of the Shares under clause 6.5 or 6.6 (as applicable):
- (a) except for this clause 6.7 and the Surviving Provisions, all the provisions of this agreement shall lapse and cease to have effect; but
  - (b) neither the lapsing of those provisions nor their ceasing to have effect shall affect any accrued rights or liabilities of any party in respect of damages for non-performance of any obligation falling due for performance prior to such lapse and cessation.
- 6.8 Subject to Completion occurring, each Management Seller unconditionally and irrevocably authorises and instructs the Sellers' Solicitors to instruct its bank to transfer, as soon as practicable after Completion from the portion of the Aggregate Consideration due to him, an amount equal to that Management Seller's Notes Repayment Amount to the Company Bank Account.
- 6.9 Following Completion, the Purchaser shall procure that any Unpaid Notified Seller Transaction Costs are paid by the Company as soon as reasonably practicable.

## 7. LEAKAGE

- 7.1 Each Seller (in respect of itself only) severally covenants to the Purchaser that in the period from and including the date immediately following the Locked Box Date to and including Completion:
- (a) neither it, nor any of its Related Persons has received or will receive any Leakage; and
  - (b) no arrangement or agreement has been made or entered into (or will be made or entered into) that has resulted or will result in it or any of its Related Persons receiving any Leakage.
- 7.2 In the event of any Leakage that results in a breach of the covenant contained in clause 7.1, the relevant Seller severally covenants to the Purchaser, subject to clauses 7.4 and 7.5, to pay to the Purchaser or, at the Purchaser's election and written direction, any Group Company, an amount in cash equal to the aggregate of the amount or value of (i) such Leakage actually received by it or its Related Persons, or (ii) in the case of any Leakage not specifically attributable to one or more Sellers (or Related Persons) after reasonable enquiries, such Leakage deemed to be received as between the Sellers in their Relevant Proportion, less an amount equal to any cash tax benefit or cash saving actually realised by (or reasonably likely to be realised in the taxable year or period during which such Leakage occurs by) the Purchaser and/or any Group Company in respect of such Leakage.
- 7.3 The Institutional Sellers and the Management Representative may (acting jointly), by notice in writing delivered to the Purchaser on or prior to the date falling three Business Days prior to Completion and specifically referencing this clause, notify the Purchaser of:
- (a) the aggregate amount of the Seller Transaction Costs (the **Notified Seller Transaction Costs**); and
  - (b) any Leakage;
- (paragraphs 7.3(a) and 7.3(b) being together the **Notified Leakage**), provided that the aggregate amount of:
- (c) all Notified Leakage; less

- (d) an amount equal to any cash tax benefit or cash saving actually realised by (or reasonably likely to be realised in the taxable year or period during which such Notified Leakage occurs by) the Purchaser and/or any Group Company in respect of such Notified Leakage,

(such amount being the **Net Notified Leakage**) shall not exceed an amount equal to the Aggregate Consideration.

7.4 In the event of any Notified Leakage, the Aggregate Consideration to be paid in accordance with clause 3 shall be reduced by an amount equal to the Net Notified Leakage and:

- (a) other than in the case of Notified Seller Transaction Costs such reduction shall be allocated to the relevant Sellers who have (or whose Related Persons have) received such Net Notified Leakage, or in the case of any Net Notified Leakage not specifically attributable to one or more Sellers (or Related Persons) after reasonable enquiries, such reduction allocated as between the Sellers in their Relevant Proportion; or
- (b) in the case of Notified Seller Transaction Costs:
  - (i) in relation to Non-Apollo Notified Sellers' Solicitors Costs, such reduction shall be allocated between the Non-Apollo Sellers and the Management Sellers in their Adjusted Relevant Proportions; and
  - (ii) in relation to all other Seller Transaction Costs, such reduction shall be allocated between the Sellers in their Relevant Proportions,

provided that, to the extent that the Aggregate Consideration is so reduced, the Sellers shall have no liability under clauses 7.1 or 7.2.

7.5 The liability of each Seller pursuant to this clause 7 shall be limited to the amount of any Leakage actually received by that Seller or its Related Persons (or deemed to have been received by that Seller pursuant to clause 7.2 in relation to Leakage not specifically attributable to one or more Sellers (or Related Persons) after reasonable enquiries) less an amount equal to any cash tax benefit or cash saving actually realised by (or reasonably likely to be realised in the taxable year or period during which such Leakage occurs by) the Purchaser and/or any Group Company in respect of such Leakage, provided that the limitation contained in this clause shall not apply to any claim against a Seller to the extent that such claim arises as a result of fraud by that Seller or where such claim would not have arisen but for fraud by that Seller. The Sellers shall not be liable more than once in respect of the same Leakage, regardless of whether more than one category of Leakage arises in respect of it.

7.6 For the purposes of clauses 7.2, 7.4 and 7.5 of this agreement, any Seller and/or Related Person shall be treated as having "received" their Relevant Proportion of any Taxation that falls within limb (j) of the definition of "Leakage".

## 8. SELLERS' WARRANTIES AND UNDERTAKINGS

8.1 Each Seller (in respect of itself only) severally warrants to the Purchaser that:

- (a) the Shares set out opposite that Seller's name in column (2), (4) or (5) (as applicable) of Part 1 of Schedule 2 (*Form of Master Allocation Schedule*) and, in the case of each Institutional Seller only, in column (2) of Part 2 of Schedule 2 (*Form of Master Allocation Schedule*) are legally and beneficially owned by that Seller as at the date of this agreement;

- (b) the Shares set out opposite that Seller's name in column (3), (4) or (5) (as applicable) of Part 1 of the Master Allocation Schedule and, in the case of each Institutional Seller only, in column (10) of Part 2 of the Master Allocation Schedule will be legally and beneficially owned by that Seller, and will represent all of the Shares held by that Seller, at Completion;
  - (c) it has the power, capacity and authority to execute and deliver this agreement and each of the other Transaction Documents to which it is or will be a party and to perform its obligations under each of them and has taken all action necessary to authorise such execution and delivery and the performance of such obligations;
  - (d) this agreement constitutes, and each of the other Transaction Documents to which it is or will be a party will, when executed, constitute legal, valid and binding obligations on it in accordance with its terms; and
  - (e) the entry by it into this agreement and, as applicable, into each of the other Transaction Documents to which it is or will be a party and the performance by it of its obligations under this agreement and each other Transaction Document will not:
    - (i) conflict with or constitute a default under any provision of:
      - (A) any agreement or instrument to which it is a party;
      - (B) in respect of any Institutional Seller, its constitutional documents; or
      - (C) subject to the satisfaction of the Conditions, any law, lien, lease, order, judgment, award, injunction, decree, ordinance or regulation or any other restriction of any kind or character by which it is bound; or
    - (ii) result in the creation or imposition of any Encumbrance on any of the Shares owned by it;
  - (f) in the case of any non-individual Seller, no administrator, receiver or administrative receiver has been appointed in respect of the whole or any part of the assets or undertaking of that Seller and no order has been made (and no resolution has been passed for) the winding-up of that Seller. Further, that Seller is not insolvent (within the meaning of the Insolvency Act 1986) or unable to pay its debts as they fall due; and
  - (g) in the case of a Seller who is an individual, he or she is not bankrupt or insolvent (as applicable) or unable to pay his or her debts within the meaning of any laws relating to bankruptcy or insolvency applicable to him or her. So far as each such Seller is aware, no steps have been taken to enforce any security over any assets of his or her assets and no event has occurred to give the right to enforce such security.
- 8.2 Each of the Sellers' Warranties is separate and independent and, except as expressly provided to the contrary in this agreement, is not limited by reference to any other of the Sellers' Warranties or by any other provision of this agreement or the Warranty Deed (including any warranties contained therein).
- 8.3 No Seller shall make any claim against any present or former Employee of any Group Company on the basis that it may have relied on any warranty, representation or assurances made by such a person before agreeing any term of or before entering into this agreement.

## **9. ACTUARIAL MATTERS**

- 9.1 The Purchaser acknowledges and agrees with the Sellers that the Purchaser is responsible for assessing the extent to which it requires appropriate independent actuarial advice relating to the purchase of the Shares and the terms of the Transaction Documents and any other agreement or document to be executed pursuant to them.
- 9.2 None of the Sellers' Warranties nor any other provision of this agreement or any other Transaction Document shall be construed as a representation or warranty as to any judgement based on actuarial principles, practices or analyses by whomsoever made or as to the future fulfilment of any assumption. In particular, and without prejudice to the generality of the foregoing, no representation or warranty or other assurance is given by any Seller or any of its Related Persons as to:
- (a) the accuracy of any forecasts, assumptions, estimates, projections, or statements of honestly expressed opinion contained in any actuarial or financial information provided to the Purchaser;
  - (b) the adequacy or reasonableness of the Reserves, and the Purchaser acknowledges and agrees with the Seller that the Purchaser is responsible for assessing the adequacy of the Reserves; and
  - (c) the adequacy of the amount of the Reserves (whether as represented in any accounts of any Group Company, any actuarial report, the Data Room or otherwise), and

notwithstanding anything otherwise contained in this agreement or in any other Transaction Document, no provision of this agreement nor of any such document shall be construed as constituting, directly or indirectly, such a representation or warranty or other assurance and no Seller nor any of its Related Persons nor any of its or their officers, employees or advisers shall be under any liability to any member of the Purchaser's Group or any other person to the extent that (for whatever reason) that member of the Purchaser's Group or other person suffers any loss or liability as a consequence of its, or its advisers', assessment of the adequacy of the amount of the Reserves being in any way inaccurate.

- 9.3 If there is any conflict between the provisions of this clause 9 and any other provision of this agreement or of any other Transaction Document or any other document to be executed pursuant to them, the provisions of this clause shall prevail.

## **10. LIMITATIONS ON SELLER LIABILITY**

- 10.1 Without prejudice to any lower limitation of liability expressly provided in this agreement in relation to any matter or provision, the maximum aggregate liability of each Seller under or in respect of this agreement and any other Transaction Document, other than under or in respect of clause 7 (Leakage), shall not exceed an amount equal to the portion of the Aggregate Consideration (for the avoidance of doubt, after deducting an amount equal to the aggregate of the Net Notified Leakage (if any) from the Aggregate Consideration in accordance with clause 7.4) received by that Seller pursuant to this agreement, as set opposite that Seller's name in column (11) of Part 1 and columns (4) and (9) of Part 2 (as applicable) of the Master Allocation Schedule.
- 10.2 The liability of each Seller in respect of:
- (a) any claim under clause 5 (Pre-completion Undertakings) of this agreement shall terminate on the date falling six months after Completion, except in respect of any claim of which written notice is given to that Seller before that date;

- (b) any claim under clause 7 (Leakage) of this agreement shall terminate on the date falling six months after Completion, except in respect of any claim of which written notice is given to that Seller before that date; and
- (c) any claim under this agreement (other than under clause 5 (Pre-completion Undertakings) or clause 7 (Leakage) shall terminate on the date falling 12 months after Completion, except in respect of any claim of which written notice is given to that Seller before that date,

and in each case, the liability of any Seller in respect of any such claim shall in any event terminate if proceedings in respect of it have not been commenced within six months after the giving of notice of that claim.

10.3 The Sellers shall not be liable more than once in respect of the same loss, regardless of whether more than one claim is available to the Purchaser in respect of it.

10.4 None of the limitations contained in this clause shall apply to any claim against a Seller to the extent that such claim arises as a result of fraud by that Seller or where such claim would not have arisen but for fraud by that Seller.

## **11. PURCHASER'S WARRANTIES AND UNDERTAKINGS**

11.1 The Purchaser warrants to the Sellers that:

- (a) it has the power, capacity and authority to execute and deliver this agreement and each of the other Transaction Documents to which it is or will be a party and to perform its obligations under each of them and has taken all action necessary to authorise such execution and delivery and the performance of such obligations;
- (b) this agreement constitutes, and each of the other Transaction Documents to which it is or will be a party will, when executed, constitute legal, valid and binding obligations on it in accordance with its terms;
- (c) the entry by it into this agreement and, as applicable, into each of the other Transaction Documents to which it is or will be a party and the performance by it of its obligations under this agreement and each other Transaction Document does not and will not conflict with or constitute a default under any provision of:
  - (i) any agreement or instrument to which it is a party;
  - (ii) its constitutional documents; or
  - (iii) subject to the satisfaction of the Conditions, any law, lien, lease, order, judgment, award, injunction, decree, ordinance or regulation or any other restriction of any kind or character by which it is bound;
- (d) no administrator, receiver or administrative receiver has been appointed in respect of the whole or any part of the assets or undertaking of the Purchaser and no order has been made (and no resolution has been passed for) the winding-up of the Purchaser. The Purchaser is not insolvent (within the meaning of the Insolvency Act 1986) or unable to pay its debts as they fall due;
- (e) neither the Purchaser (nor any member of the Purchaser's Group) has received any written notice from, or is subject to any investigation by, any governmental or regulatory body in relation to an actual or potential violation of, or default with respect to, any statute,



regulation, order, decree or judgment of any court or governmental agency in any jurisdiction where such actual or potential violation or default would likely prevent or materially delay satisfaction of any Condition; and

- (f) the Purchaser will have at Completion, subject to satisfaction of the Financing Condition, on an unconditional basis, the necessary financial resources to pay the Aggregate Consideration, meet its other obligations under this agreement and pay any and all fees and expenses required to be paid by it in connection with the Transaction.

11.2 The Purchaser shall keep the Non-Apollo Sellers and the Management Representative reasonably informed of material developments in respect of the equity financing and shall give the Sellers prompt notice (and in any event within one Business Day) of:

- (a) any breach or default by any party to an Equity Commitment Letter or any definitive document related to the equity financing of the Purchaser (including any equity commitment letter obtained, or Equity Commitment Letter Accession Deed entered into, to satisfy the Financing Condition) which any member of the Purchaser's Group becomes aware; and
- (b) the receipt of any written notice or other written communication by any member of the Purchaser's Group with respect to (x) any material breach, default, termination or repudiation by any party to an Equity Commitment Letter or any definitive document related to the equity financing of the Purchaser (including any Equity Commitment Letter Accession Deed entered into to satisfy the Financing Condition) or (y) any material dispute or disagreement between any parties to an Equity Commitment Letter (with respect to that Equity Commitment Letter) or any definitive document related to the equity financing of the Purchaser (including any Equity Commitment Letter Accession Deed entered into, to satisfy the Financing Condition).

11.3 With effect from Completion the Purchaser shall, and shall procure that each Group Company shall, release and discharge each Outgoing Director from any and all liabilities or obligations to a Group Company and shall procure that each Group Company shall waive any and all claims (in the absence of fraud) it has or may have against any Outgoing Director in connection with his appointment as a director of, employment with, or conduct in relation to, any Group Company.

## 12. POST COMPLETION UNDERTAKINGS

12.1 For a period of six years following Completion, the Purchaser shall make available to each Seller those Books and Records of the Group Companies in respect of the period prior to Completion that are reasonably required by that Seller for the purpose of dealing with its tax and accounting affairs. Access to such Books and Records shall be granted upon reasonable notice by that Seller to the Purchaser and, subject to there being no material disruption to the business of any Group Company, the Purchaser shall procure that such Books and Records are made available to that Seller for inspection during working hours and, where reasonably required for the purpose of dealing with such affairs, copying (at that Seller's expense).

12.2 For a period of six years following Completion, the Purchaser shall cause (in so far as it is able to do so) that the Company and each other relevant member of the Group will (at their cost) maintain policies of directors' and officers' liability insurance covering each Outgoing Director in respect of claims arising from facts or events that occurred on or prior to Completion and providing at least the same level and terms of cover for the Outgoing Director as those contained in the relevant policies of directors' and officers' liability insurance in effect immediately prior to Completion.

### **13. ANNOUNCEMENTS AND CONFIDENTIALITY**

- 13.1 The Purchaser shall not, without the prior written consent of the Non-Apollo Sellers and the Management Representative, issue any statement or make any announcement concerning the Transaction or any related or ancillary matter before, on or after Completion other than (a) the announcement in the Agreed Form which will be made on satisfaction of the Financing Condition; and (b) any other announcement in the Agreed Form.
- 13.2 Each of the Non-Apollo Sellers and the Management Sellers shall not, without the prior written consent of the Purchaser, issue any statement or make any announcement concerning the Transaction or any related or ancillary matter before, on or after Completion other than (a) the announcement in the Agreed Form which will be made on satisfaction of the Financing Condition; and (b) any other announcement in the Agreed Form (and any other announcement to the extent consistent with any announcement in the Agreed Form).
- 13.3 Apollo shall not, without the prior written consent of the Purchaser, Non-Apollo Sellers and the Management Representative, issue any statement or make any announcement concerning the Transaction or any related or ancillary matter before, on or after Completion other than (a) the announcement in the Agreed Form which will be made on satisfaction of the Financing Condition; and (b) any other announcement in the Agreed Form.
- 13.4 Subject to clauses 13.5 and 13.6, until the date falling five years following the date of this agreement:
- (a) each party shall treat as strictly confidential and not disclose or use any information received, held or obtained as a result of entering into this agreement or any other Transaction Document which relates to the provisions of, and negotiations relating to, this agreement or any other Transaction Document and any agreement entered into pursuant to them; and
  - (b) following Completion, each Seller shall (save in the proper discharge of their respective duties or obligations to which they might be subject as an employee or director of any Group Company) treat as strictly confidential and not disclose any information relating to the Group or the Purchaser's Group.
- 13.5 Nothing in this clause 13 prevents any announcement being made or any confidential information being disclosed (or being retained and not returned or destroyed):
- (a) with the prior written approval of the Non-Apollo Sellers, the Management Representative, Apollo and the Purchaser, which in the case of any announcement shall not be unreasonably withheld or delayed; or
  - (b) to the extent required by law, any court of competent jurisdiction, any stock exchange or any competent regulatory or supervisory body (including a Taxation Authority), whether or not the requirement has the force of law, but if a person is so required to make any announcement or to disclose any confidential information then the relevant party shall promptly notify the other parties, where practicable and lawful to do so, before the announcement is made or disclosure occurs (as the case may be) and shall co-operate with the other parties regarding the timing and content of such announcement or disclosure (as the case may be) or any action which the other parties may reasonably elect to take to challenge the validity of such requirement.
- 13.6 Nothing in this clause prevents any confidential information being disclosed (or, where applicable, being retained and not returned or destroyed):

- (a) by any member of the Purchaser's Group for the time being or, after Completion, by any Group Company:
- (i) to the extent that the information is in or comes into the public domain otherwise than as a result of a breach of any undertaking or duty of confidentiality by any member of the Purchaser's Group for the time being or, after Completion, by any Group Company;
  - (ii) to any other member of the Purchaser's Group or to its or their professional advisers, auditors or bankers but, before any disclosure to any such person, the Purchaser shall procure that such person is made aware of the terms of this clause and shall procure that such person is bound by obligations of confidentiality on terms substantially similar to the relevant provisions of this clause;
  - (iii) to a proposed purchaser of any member of the Purchaser's Group or their professional advisers or auditors but, before any disclosure to any such person, the Purchaser shall procure that such person is made aware of the terms of this clause and shall procure that such person is bound by obligations of confidentiality on terms substantially similar to the relevant provisions of this clause;
  - (iv) to any provider of finance or potential provider of finance to the Purchaser's Group or to a security trustee or agent acting on behalf of one or several banks or other financial institutions which have entered into, or may enter into, any financing agreements with the Purchaser, any person connected with the Purchaser or any member of the Purchaser's Group, or any of their respective professional advisers or auditors, but, before any disclosure to any such person, the Purchaser shall procure that such person is made aware of the terms of this clause and shall procure that such person is bound by obligations of confidentiality on terms substantially similar to the relevant provisions of this clause;
  - (v) to any of (A) its Related Persons, or (B) after Completion any of (i) such Related Persons', or (ii) such Group Company's, actual or potential investors, partners, shareholders, members, officers, directors, employees, insurers, provided that such disclosure is made on a confidential basis; or
  - (vi) prior to the Financing Long Stop Date to potential investors for the purpose of satisfying the Financing Condition provided that each such potential investor enters a non-disclosure agreement which is in substantially the same form as the draft non-disclosure agreement in the Agreed Form.
- (b) by any Seller to any of its Related Persons, to any other Seller or any Related Person of any other Seller, to any Group Company, or to any actual or potential investor in any such fund, limited partnership or investment vehicle, in each case on a confidential basis; or
- (c) by any Seller or, on or before Completion, by any Group Company:
- (i) to the extent that the information is in or comes into the public domain otherwise than as a result of a breach of any undertaking or duty of confidentiality by any Seller or, on or before Completion, by any Group Company; or
  - (ii) to its professional advisers, auditors or bankers but, before any disclosure to any such person, that Seller shall procure that such person is made aware of the terms of this clause and shall procure that such person is bound by obligations of

confidentiality on terms substantially similar to the relevant provisions of this clause.

#### **14. NOTICES**

14.1 Any notice or other communication to be given in connection with this agreement must be in writing (which does not include an Electronic Communication) in English and must be delivered or sent by post to the party to whom it is to be given as follows:

- (a) if to a Seller, at the address specified against his or its relevant name in Schedule 1 with a copy to:

Allen & Overy LLP  
One Bishops Square  
London E1 6AD

marked for the attention of Philip Jarvis and Stephen Mathews,

- (b) if to the Management Representative, at:

c/o Catalina Holdings UK Limited  
18 Mansell Street  
Fifth Floor  
London  
E1 8AA

marked for the attention of Christopher M. Fagan,

with a copy to:

Catalina Holdings (Bermuda) Ltd  
Cumberland House, 7th Floor  
One Victoria Street, Hamilton HM11  
Bermuda

marked for the attention of Group General Counsel, Keith Lyon

- (c) if to the Purchaser at:

Walkers Corporate Limited,  
Cayman Corporate Centre,  
27 Hospital Road, George Town,  
Grand Cayman KY1-9008

marked for the attention of General Counsel

with a copy to:

Apollo Management Holdings, L.P  
9 West 57th Street,  
New York, NY 1002

or at any such other address of which it or he shall have given notice for this purpose to the other parties. Any notice or other communication sent by post shall be sent by prepaid recorded delivery

post (if within the United Kingdom) or by prepaid airmail (if the country of destination is not the same as the country of origin).

14.2 Any notice or other communication shall be deemed to have been given:

- (a) if delivered by hand, registered post or courier, at the time of delivery; or
- (b) if sent by post, on the second Business Day after it was put into the post (if within the United Kingdom) or on the fifth Business Day after it was put into the post (if the country of destination is not the same as the country of origin).

14.3 In proving the giving of a notice or other communication, it shall be sufficient to prove that delivery was made or that the envelope containing the communication was properly addressed and posted by prepaid recorded delivery post or by prepaid airmail, as the case may be.

14.4 This clause shall not apply in relation to the service of any claim, form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this agreement.

## 15. FURTHER ASSURANCES

15.1 On or after Completion each Seller shall, in respect of the Shares held by it only, at the cost of the Purchaser, execute and do all such deeds, documents, acts and things as the Purchaser may from time to time reasonably require in order to vest those Shares in the Purchaser.

15.2 For so long after Completion as any Seller remains the registered holder of any Share, that Seller shall hold that Share and any distributions, property and rights deriving from it in trust for the Purchaser and shall deal with that Share and any distributions, property and rights deriving from it as the Purchaser directs.

## 16. ASSIGNMENTS

16.1 No party may assign, transfer, charge or otherwise deal with all or any of its rights or obligations under this agreement nor grant, declare, create or dispose of any right or interest in it without the prior written consent of all the other parties, save that the Purchaser may charge or assign the benefit of this agreement to: (A) (by way of security only) any security agent(s) and/or bank(s) and/or financial institution(s) lending money or making other banking facilities available to the Purchaser (or any member of the Purchaser's Group), or the refinancing of such facilities (whether in whole or in part) (including any additional facilities and hedging made available in connection with such financing or refinancing) and such rights may further be assigned to any transferee under a valid enforcement of such security but so that, notwithstanding any such assignment in security, each Seller may unless the Management Representative and the Institutional Sellers receives written notice of enforcement of the relevant security interest, deal with the Purchaser in connection with all matters arising under this agreement, and (B) any other member of the Purchaser's Group, provided that: (i) such assignment shall not relieve the Purchaser from its obligations under this agreement; (ii) in relation to (B) only, if such assignee ceases to be a member of the Purchaser's Group all benefits relating to this agreement assigned to such assignee shall be deemed automatically by that fact to be re-assigned to the Purchaser immediately before such cessation; and (iii) no Seller shall be under any greater obligation or liability thereby than if such assignment had never occurred and that the amount of loss or damage recoverable by the assignee shall be calculated as if that person had been originally named as the Purchaser in this agreement (and, in particular, shall not exceed the sum which would, but for such assignment, have been recoverable hereunder by the Purchaser in respect of the relevant fact, matter or circumstance).

16.2 The Purchaser may, with the consent of the Non-Apollo Sellers and the Management Representative (such consent not to be unreasonably withheld or delayed), assign the benefit of this agreement to any co-investor identified by the Purchaser on or prior to the date on which the last of the Conditions to be satisfied (or waived) is so satisfied (or waived), to the extent that a determination is made that, due to tax, regulatory, or other good faith commercial considerations, such investor should hold a direct interest in the Company (rather than an indirect interest through the Purchaser or any member of Purchaser's Group), provided that (i) such assignment shall not relieve the Purchaser from its obligations under this agreement; and (ii) no Seller shall be under any greater obligation or liability thereby than if such assignment had never occurred and that the amount of loss or damage recoverable by the assignee shall be calculated as if that person had been originally named as the Purchaser in this agreement (and, in particular, shall not exceed the sum which would, but for such assignment, have been recoverable hereunder by the Purchaser in respect of the relevant fact, matter or circumstance). For the avoidance of doubt, it shall not be unreasonable to withhold consent where such assignment would be likely to: (i) prevent or materially delay satisfaction of any Condition; or (ii) result in any additional material condition, regulatory filing or approval being required to complete the sale of Shares under this agreement.

## 17. PAYMENTS AND SET-OFF

17.1 Unless otherwise expressly stated (or as otherwise agreed in writing in the case of a given payment), each payment to be made under this agreement or any other Transaction Document shall be made in USD by transfer of the relevant amount into the relevant account on or before the date the payment is due for value on that date. The relevant account for the payment by the Purchaser of the aggregate amount stated in paragraph (a) of Part 2 of Schedule 3 is the Sellers' Solicitors Bank Account. Unless otherwise expressly stated, the relevant account for any other given payment is:

- (a) if that payment is to an Institutional Seller such account as that Institutional Seller shall, not less than three Business Days before the date that payment is due, have specified for such payment by giving notice to the Purchaser for the purpose of that payment;
- (b) if that payment is to a Management Seller such account as the Management Representative shall, not less than three Business Days before the date that payment is due, have specified for such payment by giving notice to the Purchaser for the purpose of that payment; and
- (c) if that payment is to the Purchaser, such account of the Purchaser as the Purchaser shall, not less than three Business Days before the date that payment is due, have specified for such payment by giving notice to the Institutional Sellers and the Management Representative for the purpose of that payment.

17.2 If a party defaults in making any payment when due of any sum payable under this agreement or under any other Transaction Document, it shall pay interest on that sum from (and including) the date on which payment is due until (but excluding) the date of actual payment (after as well as before judgment) at an annual rate of USD LIBOR plus two per cent., which interest shall accrue from day to day and be compounded monthly.

## 18. GENERAL

18.1 Each of the obligations, warranties and undertakings set out in this agreement (excluding any obligation which is fully performed at Completion) shall continue in force after Completion.

18.2 The Purchaser may release or compromise in whole or in part the liability of any one Seller under this agreement or grant any time or indulgence to that Seller without affecting the liability of any other Seller.

- 18.3 Any consent given in accordance with the provisions of this agreement by the Management Representative in connection with this agreement shall bind all the Management Sellers.
- 18.4 Any consent given in accordance with the provisions of this agreement by the Purchaser and/or Apollo in connection with this agreement is given without prejudice to any rights (including separate consent rights) the Purchaser and/or Apollo may have now or in the future with respect to any other matters or documents (including, for the avoidance of doubt the SSA), and in each case the consent is limited to the specific provisions of this agreement and specific circumstances to which it refers.
- 18.5 Time is not of the essence in relation to any obligation under this agreement unless:
- (a) time is expressly stated to be of the essence in relation to that obligation; or
  - (b) one party fails to perform an obligation by the time specified in this agreement and another party serves a notice on the defaulting party requiring it to perform the obligation by a specified time and stating that time is of the essence in relation to that obligation.
- 18.6 Except as provided otherwise in this agreement each party shall pay the costs, charges and other expenses incurred by it in connection with the entering into and completion of this agreement.
- 18.7 This agreement may be executed in any number of counterparts, all of which, taken together shall constitute one and the same agreement, and any party (including any duly authorised representative of a party) may enter into this agreement by executing a counterpart.
- 18.8 The rights of each party under this agreement:
- (a) may be exercised as often as necessary;
  - (b) except as otherwise expressly provided in this agreement, are cumulative and not exclusive of rights and remedies provided by law; and
  - (c) may be waived only in writing and specifically.
- Delay in exercising or non-exercise of any such right is not a waiver of that right.
- 18.9 No party shall be entitled to rescind this agreement in any circumstances, or to terminate this agreement except as expressly provided under clauses 4.19 or 6.7.
- 18.10 Except as otherwise expressly stated in this agreement, a person who is not a party to this agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 18.11 The rights and obligations of each of the Sellers and the Purchaser under this agreement shall continue for the benefit of, and shall be binding on, their respective successors and assigns.
- 18.12 No amendment of this agreement or any other Transaction Document shall be valid unless it is in writing and duly executed by or on behalf of all of the parties to it.
- 18.13 The provisions contained in each clause and subclause of this agreement shall be enforceable independently of each of the others and their validity shall not be affected if any of the others are invalid. If any of those provisions is void but would be valid if some part of the provision were deleted, the provision in question shall apply with such modification as may be necessary to make it valid.

## **19. WHOLE AGREEMENT**

- 19.1 This agreement and the other Transaction Documents contain the whole agreement between the parties relating to the transactions contemplated by the Transaction Documents and supersede all previous agreements, whether oral or in writing, between the parties relating to these transactions. Except as required by statute, no terms shall be implied (whether by custom, usage or otherwise) into this agreement.
- 19.2 Each party:
- (a) acknowledges that in agreeing to enter into this agreement and the other Transaction Documents it has not relied on any express or implied representation, warranty, collateral contract or other assurance made by or on behalf of any other party before the entering into of this agreement; and
  - (b) waives all rights and remedies which, but for this subclause 19.2, might otherwise be available to it in respect of any such express or implied representation, warranty, collateral contract or other assurance.
- 19.3 The Purchaser further acknowledges that no connected person or adviser of any Seller is authorised to make or give any warranty, representation, statement, undertaking or covenant of any nature on behalf of a Seller in respect of the transaction contemplated by this agreement and that no Seller shall have any liability to it in such respect (whether for vicarious acts or otherwise).
- 19.4 Nothing in this clause limits or excludes any liability for, or remedy in respect of, fraud.

## **20. MANAGEMENT REPRESENTATIVE**

- 20.1 The Management Representative shall be entitled to carry out the functions expressly conferred on him by this agreement.
- 20.2 The Management Representative shall not be liable to any other Seller for any act or omission in connection with the performance by the Management Representative (in that capacity) of his duties, functions and/or role pursuant to this agreement, except in the case of his fraud. The Management Representative may act upon any instrument or written communication believed by the Management Representative to be genuine and to be signed and presented by the proper person(s).
- 20.3 Subject to clause 20.4, each Management Seller undertakes to indemnify and keep indemnified and hold harmless the Management Representative from all losses, costs, damages, expenses (including professional fees) and any other liabilities that may be incurred by the Management Representative (in that capacity) as a result of performance of his duties, functions and role as the Management Representative under this agreement provided that the Management Representative shall not be entitled to indemnification for and in respect of any matter where his actions or inactions are fraudulent.
- 20.4 Each Management Seller shall only be liable for its proportion of any claim pursuant to clause 20.3 in proportion to the Ordinary Consideration (less an amount equal to the aggregate of the Net Notified Leakage (if any) deducted from the Ordinary Consideration in accordance with clause 7.4) received by that Management Seller pursuant to this agreement, as set opposite that Management Seller's name in column (11) of Part 1 of the Master Allocation Schedule, when taken as a proportion of the Ordinary Consideration (less an amount equal to the aggregate of the Net Notified Leakage (if any) deducted from the Ordinary Consideration in accordance with clause 7.4) received by all of the Management Sellers.



## **21. GOVERNING LAW AND JURISDICTION**

- 21.1 This agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and interpreted in accordance with, English law.
- 21.2 The English courts have exclusive jurisdiction to settle any dispute, claim or controversy arising out of or in connection with this agreement (including a dispute, claim or controversy relating to any non-contractual obligations arising out of or in connection with this agreement) (for the purposes of this clause, a **Dispute**) and the parties submit to the exclusive jurisdiction of the English courts.
- 21.3 The parties waive any objection to the English courts on grounds that they are an inconvenient or inappropriate forum to settle any Dispute.
- 21.4 The Purchaser irrevocably undertakes that service of process in any proceedings before the English courts in relation to any Dispute shall be at the Purchaser's address for service of any notice under clause 14.1 and hereby acknowledges that such service shall constitute service at an agreed place for the purposes of Rule 6.11 of the Civil Procedure Rules. A copy of any claim form, application notice, order or judgment served on the Purchaser under this clause 21.4 shall also be sent to Apollo Management Holdings, L.P. at 9 West 57th Street, New York, NY 1002.
- 21.5 Apollo irrevocably undertakes that service of process in any proceedings before the English courts in relation to any Dispute shall be at Apollo's address for service of any notice under clause 14.1 and hereby acknowledges that such service shall constitute service at an agreed place for the purposes of Rule 6.11 of the Civil Procedure Rules. A copy of any claim form, application notice, order or judgment served on Apollo under this clause 21.5 shall also be sent to Apollo Management Holdings, L.P. at 9 West 57th Street, New York, NY 1002.
- 21.6 Caisse irrevocably appoints CDPQ London LLP of 11 Charles II Street, 2nd Floor, London, United Kingdom, SW1Y 4QU as its agent under this agreement for service of process in any proceedings before the English courts in relation to any Dispute.
- 21.7 Ontario irrevocably appoints Ontario Teachers' Pension Plan (Europe) Limited, 10 Portman Square, London, W1H 6AZ as its agent under this agreement for service of process in any proceedings before the English courts in relation to any Dispute.
- 21.8 Peter L. Harnik irrevocably appoints Catalina Services UK Limited, 18 Mansell Street Fifth Floor London E1 8AA as his agent under this agreement for service of process in any proceedings before the English courts in relation to any Dispute.
- 21.9 Peter D. Johnson irrevocably appoints Catalina Services UK Limited, 18 Mansell Street Fifth Floor London E1 8AA as his agent under this agreement for service of process in any proceedings before the English courts in relation to any Dispute.
- 21.10 Charles N. Kasmer irrevocably appoints Catalina Services UK Limited, 18 Mansell Street Fifth Floor London E1 8AA as his agent under this agreement for service of process in any proceedings before the English courts in relation to any Dispute.
- 21.11 Gary Haase irrevocably appoints Catalina Services UK Limited, 18 Mansell Street Fifth Floor London E1 8AA as his agent under this agreement for service of process in any proceedings before the English courts in relation to any Dispute.
- 21.12 Each party irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal action or proceeding arising, directly or indirectly, out of or relating to this agreement or the transactions contemplated by it and for any counterclaim

therein (in each case whether based on contract, tort or any other theory and whether predicated on common law, statute or otherwise). Each party (a) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver, and (b) acknowledges that it and the other parties have been induced to enter into this agreement by, amongst other things, the mutual waivers and certifications in this clause.

## **22. LANGUAGE**

The language of this agreement and the transactions envisaged by it is English and all notices to be given in connection with this agreement must be in English. All demands, requests, statements, certificates or other documents or communications to be provided in connection with this agreement and the transactions envisaged by it must be in English or accompanied by a certified English translation; in this case the English translation prevails unless the document or communication is a statutory or other official document or communication.

**AS WITNESS** this agreement has been signed by the parties (or their duly authorised representatives) on the date stated at the beginning of this agreement.

**SCHEDULE 1**

**THE SELLERS**

**PART 1**

**THE INSTITUTIONAL SELLERS**

<b>Name</b>	<b>Address</b>
Apollo Rose, L.P., acting through its general partner, Apollo Rose GP, L.P. ( <b>Apollo</b> )	c/o Maples Corporate Services Limited P.O. Box 309, Uglund House  Grand Cayman, KY1 1104, Cayman Islands
CDP VSI I Limited Partnership ( <b>Caisse</b> )	1000 Place Jean-Paul-Riopelle, Montreal Quebec, Canada H2Z 2B3
1397225 Ontario Limited ( <b>Ontario</b> )	Suite 500, 5650 Yonge Street Toronto, Ontario, Canada M2M 4H5

## PART 2

### THE MANAGEMENT SELLERS

<b>Name</b>	<b>Address</b>
Christopher M. Fagan	94 Onslow Gardens, London, SW7 3BS, UK
M. Dean Dwonczyk	53 Balham Park Road, London SW12 8DX, UK
Christopher J. Fleming	3 Marlin End, Berkhamsted, Herts HP4 3GB, UK
Keith A. Lyon	"Overdale", Slad Road, Slad, Stroud, Gloucestershire GL6 7QD
Mayur P. Patel	30 Pond Place, Flat 1, London SW2 6QP, UK
Peter L. Harnik	14 Mountain Wood Drive, Greenwich, Connecticut CT 06830, USA
Peter D. Johnson	154 Ocean Boulevard, Atlantic Highlands New Jersey NJ 07716, USA
Charles N. Kasmer	Unit 15, The Wharf, 1 Harbour Road, Paget, PG 01, Bermuda
Gary Haase	11 Riverside Drive, #4NE New York, N.Y. 10023, USA
Philip Hernon	29 Mortimer Road, Erith Kent DA8 3DR, UK

SCHEDULE 2

FORM OF MASTER ALLOCATION SCHEDULE

PART 1

A ORDINARY SHARES, B ORDINARY SHARES AND C ORDINARY SHARES

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Name of Seller	Number of A Ordinary Shares held at the date of this agreement	Number of A Ordinary Shares held at Completion	Number of B Ordinary Shares held at the date of this agreement and at Completion	Number of C Ordinary Shares held at the date of this agreement and at Completion	Number of Retained Shares to be held immediately following Completion	Number of Shares to be sold by Management Sellers i.e. the Shares set out in column (4) or (5) (as applicable) less the Retained Shares set out in column (6)	Additional Ordinary Consideration (\$)	Ordinary Consideration (\$) (i.e. Additional Ordinary Consideration plus Equity Value less Initial Preferred Consideration)	Net Notified Leakage (if any) to be deducted from Ordinary Consideration (\$)	Ordinary Consideration less Net Notified Leakage (if any) payable in cash (\$)	Ordinary Consideration less Net Notified Leakage (if any) attributable to the Retained Shares	Notes Repayment Amount
Apollo	2,709,405	[●]	N/A	N/A	N/A	N/A	[●]	[●]	[●]	[●]	N/A	N/A
Caisse	2,084,157	[●]	N/A	N/A	N/A	N/A	[●]	[●]	[●]	[●]	N/A	N/A

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Name of Seller	Number of A Ordinary Shares held at the date of this agreement	Number of A Ordinary Shares held at Completion	Number of B Ordinary Shares held at the date of this agreement and at Completion	Number of C Ordinary Shares held at the date of this agreement and at Completion	Number of Retained Shares to be held immediately following Completion	Number of Shares to be sold by Management Sellers i.e. the Shares set out in column (4) or (5) (as applicable) less the Retained Shares set out in column (6)	Additional Ordinary Consideration (\$)	Ordinary Consideration (\$) (i.e. Additional Ordinary Consideration plus Equity Value less Initial Preferred Consideration)	Net Notified Leakage (if any) to be deducted from Ordinary Consideration (\$)	Ordinary Consideration Net Notified Leakage (if any) - payable in cash (\$)	Ordinary Consideration less Net Notified Leakage (if any) - attributable to Retained Shares	Notes Repayment Amount
Ontario	1,250,494	[●]	N/A	N/A	N/A	N/A	[●]	[●]	[●]	[●]	N/A	N/A
Christopher M. Fagan	N/A	N/A	400,000	N/A	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
M. Dean Dwonczyk	N/A	N/A	200,000	N/A	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
Christopher J. Fleming	N/A	N/A	N/A	70,000	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
Keith A.	N/A	N/A	N/A	90,000	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Name of Seller	Number of A Ordinary Shares held at date of this agreement	Number of A Ordinary Shares held at Completion	Number of B Ordinary Shares held at date of this agreement and at Completion	Number of C Ordinary Shares held at date of this agreement and at Completion	Number of Retained Shares to be held immediately following Completion	Number of Shares to be sold by Management Sellers i.e. the Shares set out in column (4) or (5) (as applicable) less the Retained Shares set out in column (6)	Additional Ordinary Consideration (\$)	Ordinary Consideration (\$) (i.e. Additional Ordinary Consideration plus Equity Value less Initial Preferred Consideration)	Net Notified Leakage (if any) to be deducted from Ordinary Consideration (\$)	Ordinary Consideration less Net Notified Leakage (if any) payable in cash (\$)	Ordinary Consideration less Net Notified Leakage (if any) attributable to the Retained Shares	Notes Repayment Amount
Lyon												
Mayur Patel	N/A	N/A	N/A	80,000	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
Peter L. Harnik	N/A	N/A	N/A	85,000	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
Peter D. Johnson	N/A	N/A	N/A	25,000	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
Charles N. Kasmer	N/A	N/A	N/A	38,100	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Name of Seller	Number of A Ordinary Shares held at the date of this agreement	Number of A Ordinary Shares held at Completion	Number of B Ordinary Shares held at the date of this agreement and at Completion	Number of C Ordinary Shares held at the date of this agreement and at Completion	Number of Retained Shares to be held immediately following Completion	Number of Shares to be sold by Management Sellers i.e. the Shares set out in column (4) or (5) (as applicable) less the Retained Shares set out in column (6)	Additional Ordinary Consideration (\$)	Ordinary Consideration (\$) (i.e. Additional Ordinary Consideration plus Equity Value less Initial Preferred Consideration)	Net Notified Leakage (if any) to be deducted from Ordinary Consideration (\$)	Ordinary Consideration less Net Notified Leakage (if any) payable in cash (\$)	Ordinary Consideration less Net Notified Leakage (if any) attributable to the Retained Shares	Notes Repayment Amount
Gary Haase	N/A	N/A	N/A	18,100	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
Philip Hernon	N/A	N/A	N/A	9,050	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
<b>TOTAL</b>	<b>6,044,056</b>	<b>[●]</b>	<b>600,000</b>	<b>415,250</b>	<b>[●]</b>	<b>[●]</b>	<b>[●]</b>	<b>[●]</b>	<b>[●]</b>	<b>[●]</b>	<b>[●]</b>	<b>[●]</b>



**PART 2**

**PREFERENCE SHARES AND D ORDINARY SHARES**

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
<i>Name of Seller</i>	<i>Number of Preference Shares held at the date of this agreement</i>	<i>Number of Initial D Ordinary Shares held at Completion</i>	<i>Initial Preferred Consideration (\$)</i>	<i>Number of any Additional Funding Preference Shares held immediately prior to Completion</i>	<i>Number of any Additional Accrued Return Preference Shares issued immediately prior to Completion</i>	<i>Total number of any Additional Preference Shares held immediately prior to Completion (i.e. sum of columns (5) and (6))</i>	<i>Number of any Additional D Ordinary Shares held at Completion</i>	<i>Additional Preferred Consideration (\$)</i>	<i>Total number of D Ordinary Shares held at Completion (i.e. sum of columns (3) and (8))</i>
Apollo	181,956,962	[●]	[●]	[●]	N/A - Preference Capital Return satisfied by deemed increase in Subscription Price of Additional Funding Preference Shares of	[●]	[●]	[●]	[●]

(1) Name of Seller	(2) Number of Preference Shares held at the date of this agreement	(3) Number of Initial D Ordinary Shares held at Completion	(4) Initial Preferred Consideration (\$)	(5) Number of any Additional Funding Preference Shares held immediately prior to Completion	(6) Number of any Additional Accrued Return Preference Shares issued immediately prior to Completion	(7) Total number of any Additional Preference Shares held immediately prior to Completion (i.e. sum of columns (5) and (6))	(8) Number of any Additional D Ordinary Shares held at Completion	(9) Additional Preferred Consideration (\$)	(10) Total number of D Ordinary Shares held at Completion (i.e. sum of columns (3) and (8))
Caisse	176,792,268	[●]	[●]	[●]	\$ [●]	[●]	[●]	[●]	[●]
Ontario	105,991,701	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]
<b>TOTAL</b>	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]	[●]

### **SCHEDULE 3**

#### **COMPLETION**

##### **PART 1**

#### **SELLERS' OBLIGATIONS**

1. At Completion each Seller shall deliver to the Purchaser:
  - (a) duly executed transfers in favour of the Purchaser of the Shares held by that Seller (excluding any Retained Shares); and
  - (b) the share certificate(s) representing the Ordinary Shares (and, in the case of each Institutional Seller, the D Ordinary Shares) held by that Seller and being sold under this agreement (or an indemnity for lost share certificate(s) in a form acceptable to the Company in the case of any share certificate(s) which are lost or missing); and
  - (c) a counterpart duly executed by that Seller of the Deed of Termination and Release and any other Transaction Document to which it is a party;
2. At Completion the Sellers shall deliver, or procure the delivery of, to the Purchaser:
  - (a) the register of members of the Company;
  - (b) a copy of the duly executed minutes of a meeting of the board of directors or written resolution of the directors of the Company approving (i) the sale of the Shares by the Sellers to the Purchaser; and (ii) release of the Share Charges;
  - (c) confirmation from the Company that upon receipt in the Company Bank Account of the amount necessary to pay any Management Seller's Note Repayment Amount, the obligations and liabilities of such Management Seller under the relevant Management Promissory Note(s) shall be released and discharged in full and the Company shall mark the relevant Management Promissory Note as "cancelled";
  - (d) deeds of release of the Share Charges in the Agreed Form duly executed by the Company; and
  - (e) a letter of resignation and release in the Agreed Form duly executed by each of Colleen Campbell, Michael Murray, Francois Boudreault, Yvon Trepanier and Caroline Foulger resigning from their role as director of each Group Company to which they are appointed, in each case with effect from Completion.

## **PART 2**

### **PURCHASER'S OBLIGATIONS**

At Completion the Purchaser shall:

(a) electronically transfer to the Sellers' Solicitors Bank Account the aggregate of:

(i) an amount equal to any Additional Preferred Consideration;

(ii) an amount equal to the Initial Preferred Consideration; and

(iii) an amount equal to the Ordinary Consideration,

payable to the Sellers in cash in accordance with clause 3.2 less an amount equal to the aggregate of all Net Notified Leakage; and

(b) deliver to the Management Representative and the Institutional Sellers a copy of the duly executed corporate authorisations of the Purchaser (together with any power of attorney, if applicable) approving entry into this agreement and the other Transaction Documents to which it is a party.

**SCHEDULE 4**  
**INTERPRETATION**

3. In this agreement:

**A Ordinary Shares** means the A ordinary shares of \$1.00 each in the capital of the Company;

**Accrual Commencement Date** means the date falling 4 months from the date of this agreement;

**Accrual Rate** means:

(a) for the period commencing on and from the Accrual Commencement Date until (but not including) the date that is one whole month after the Accrual Commencement Date (the “**Initial Accrual Rate Period**”), the Initial Accrual Rate; and

(b) in respect of each whole monthly period after the expiry of the Initial Accrual Rate Period, a rate calculated in accordance with following formula:

$$R = \text{Initial Accrual Rate} + (n \times 0.5 \text{ per cent.})$$

where

**R** = the rate per annum; and

**n** = the number of whole months from the Accrual Commencement Date;

**Additional Accrued Return Preference Shares** has the meaning given to it in clause 5.5(a);

**Additional D Ordinary Shares** means any D Ordinary Shares to be issued to the Institutional Sellers immediately prior to Completion as a result of the conversion of any Additional Preference Shares into D Ordinary Shares in accordance with clause 5.4(c);

**Additional Funding Preference Shares** has the meaning given to it in clause 5.5;

**Additional Ordinary Consideration** means the amount accrued on the Equity Value at the Accrual Rate (accruing daily on the basis of 365 days in a year) in respect of the period from and including the Accrual Commencement Date to and including the date of Completion;

**Additional Preference Share Commitments** has the meaning given to it in the SSA in force as at the date of this agreement;

**Additional Preference Shares** means any Additional Funding Preference Shares and any Additional Accrued Return Preference Shares;

**Additional Preferred Consideration** means an amount equal to the sum of:

(a) an amount equal to \$1.00 per each Additional Funding Preference Share held by the Institutional Sellers immediately prior to Completion); and

(b) the aggregate amount accrued on any amounts paid by the Institutional Sellers for any Additional Funding Preference Shares at a rate of 10 per cent. per annum, in each case accruing daily on the basis of 365 days in a year in respect of the period from and including

the date of payment for such Additional Preference Shares by the relevant Institutional Seller to and including the date of Completion;

**Adjusted Relevant Proportion** means, in respect of each Non-Apollo Seller and Management Seller, the proportion which the Aggregate Consideration apportioned to the Shares held by that Seller as set out in:

- (a) column (9) of Part 1 of the Master Allocation Schedule;
- (b) column (4) of Part 2 of the Master Allocation Schedule; and
- (c) column (9) of Part 2 of the Master Allocation Schedule,

bears to the total amount of the Aggregate Consideration for all of the Shares held by the Non-Apollo Sellers and Management Sellers;

**Affiliate** means in relation to a person:

- (a) any person that directly, or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such person and, for these purposes, control (including the terms "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management, policies or activities of a person, whether through the ownership of voting securities, by contract or otherwise;
- (b) any Fund of: (i) that person (or any group undertaking of, or any (direct or indirect) shareholder in, that person); or (ii) which that person's (or any group undertaking of, or any (direct or indirect) shareholder in, that person's) general partner, trustee, nominee, manager or adviser, is a general partner, trustee, nominee, manager or adviser;
- (c) any general partner, limited partner, trustee, nominee, operator, arranger or manager of, investment adviser to, or holder of interests (whether directly or indirectly) in, that person, or in any (direct or indirect) shareholder in that person, (or of, to or in any group undertaking of that person, or of any (direct or indirect) shareholder in that person) or of, to or in any Fund referred to in (b) above; or
- (d) any co-investment scheme of that person (or of any group undertaking of that person) or of any person referred to in (a), (b) or (c) above, or any person holding shares or other interests under such scheme or entitled to the benefit of shares or other interests under such scheme,

and any reference to a shareholder of a person shall be deemed to also include any holder of a partnership interest or other equity interest in such person;

**Aggregate Consideration** means the amount equal to the aggregate of:

- (a) the Ordinary Consideration;
- (b) the Initial Preferred Consideration; and
- (c) any Additional Preferred Consideration;

**Agreed Form** means, in relation to any document, the form of that document which has been agreed between the Sellers and the Purchaser and initialled for the purposes of identification by or on behalf of each of the Non-Apollo Sellers, the Management Representative and the Purchaser with such

changes as each of the Non-Apollo Sellers, the Management Representative and the Purchaser may agree before Completion;

**Applicable Law** means any applicable law, statute, regulation, treaty, rule, decree, order, judgment, injunction, writ, directive or requirement enacted, promulgated, issued, enforced or entered from time to time by any Regulatory Authority;

**Apollo** has the meaning given to it in Part 1 of Schedule 1;

**Athene Comfort Letter** means the non-binding comfort letter duly executed and issued by Athene on the date of this agreement in favour of the Sellers;

**Athene** means Athene Holding Ltd;

**B Ordinary Shares** means the B ordinary shares of \$1.00 each in the capital of the Company;

**Bermuda** means the Islands of Bermuda;

**Bermuda Regulatory Approvals** has the meaning given to it in clause 4.13;

**BMA** means the Bermuda Monetary Authority;

**Books and Records** has its common law meaning and includes, without limitation, all notices, correspondence, orders, inquiries, drawings, plans, books of account and other documents and all computer disks or tapes or other machine legible programs or other records (excluding software);

**Burdensome Condition** has the meaning given to it in clause 4.1(m);

**Business Day** means a day (other than a Saturday or Sunday or public holiday) on which banks are generally open in England, the United States, Bermuda, the Cayman Islands and Canada for normal business;

**Bye-laws** means the bye-laws of the Company;

**Catalina General** means Catalina General Insurance Ltd., an exempted company incorporated and registered in Bermuda under number 08116 which is registered as a Class 3A and a Class C insurer under the Insurance Act and whose registered office is at Andrew's Place, 5<sup>th</sup> Floor, 51 Church Street, Hamilton HM12, Bermuda;

**C Ordinary Shares** means the C ordinary shares of \$1.00 each in the capital of the Company;

**Caisse** has the meaning given to it in Part 1 of Schedule 1;

**California DOI** means the California Department of Insurance;

**CBI** means the Central Bank of Ireland;

**Colorado DOI** means the Colorado Division of Insurance;

**Company** means Catalina Holdings (Bermuda) Ltd., an exempted company incorporated and registered in Bermuda under number 40299, whose registered office is at Andrew's Place, 5<sup>th</sup> Floor, 51 Church Street, Hamilton HM12, Bermuda;

**Company Bank Account** means the following bank accounts of the Company (or such other account as the Management Representative shall have agreed in writing with the Purchaser not less than three Business Days before Completion):

(a) for any payment in USD:  
Correspondent Bank: HSBC Bank USA, 452 Fifth Avenue New York, NY U.S.A., 10018  
CHIPS ABA: 0108  
FED ABA: 021001088  
SWIFT Code: MRMDUS33

Beneficiary Bank: HSBC Bank Bermuda Limited, 6 Front Street, Hamilton, Bermuda  
SWIFT Code: BBDABMHM  
Beneficiary A/C Number: 010-758464-501  
Beneficiary A/C Name: Catalina Holdings (Bermuda) Ltd; and

(b) for any payment in GBP:

Correspondent Bank: HSBC Bank plc, 27 – 32 Poultry London, England  
SWIFT Code: MIDL GB22

Beneficiary Bank: HSBC Bank of Bermuda Limited, 6 Front Street, Hamilton, Bermuda  
SWIFT Code: BBDABMHM  
Beneficiary A/C Number: 010-758464-513  
Beneficiary A/C Name: Catalina Holdings (Bermuda) Ltd;

**Competition Authority** means the Ireland Competition and Consumer Protection Commission;

**Completion** means completion of the sale and purchase of the Shares in accordance with this agreement;

**Conditions** means the conditions set out in clause 4.1;

**D Ordinary Shares** means the D ordinary shares of \$1.00 each in the capital of the Company from time to time;

**Data Room** means the information and the documents referred to in the index of data room documents, in the Agreed Form;

**Deed of Termination and Release** means the deed of termination and release in respect of the SSA in the Agreed Form;

**Deferred Shares** means any deferred shares of \$0.01 each in the capital of the Company from time to time;

**Deferred Shares Buy-Back** has the meaning give to it in clause 5.4(b);

**DISB** means the District of Columbia Department of Insurance, Securities and Banking;

**Disclosure Letter** means the letter dated on or about the date of this agreement from certain of the Management Sellers to the Purchaser and relating to the Warranty Deed;

**Electronic Communication** means an electronic communication as defined in the Electronic Communications Act 2000;



**Emergency Situation** means a situation which the board of directors of the Company reasonably believes (i) is an emergency or disaster, and (ii) has or could reasonably be expected to have a material adverse effect on the Group;

**Employee** means an individual who has entered into or works under a contract of employment with any Group Company and also includes any director or other officer of any Group Company whether or not he has entered into or works or worked under a contract of employment with any Group Company;

**Encumbrance** means any mortgage, charge (fixed or floating), pledge, lien, option, right to acquire, right of pre-emption, assignment by way of security or trust arrangement for the purpose of providing security or other security interest of any kind (including any retention arrangement), or any agreement to create any of the foregoing;

**Equity Commitment Letter** means an equity commitment letter in the Agreed Form;

**Equity Commitment Letter Accession Deed** means an accession deed in the form set out in the Equity Commitment Letter;

**Exchange Control Legislation** means the Exchange Control Act 1972 and the regulations promulgated thereunder, including the Exchange Control Regulations 1973, of Bermuda;

**Equity Value** means \$875 million;

**Financing Condition** has the meaning given to it in clause 4.2(a);

**Financing Long Stop Date** means:

- (a) the date falling 70 days after the date of this agreement; or
- (b) such other date agreed in writing between the Non-Apollo Sellers, Management Representative and the Purchaser;

**FINMA** means the Swiss Financial Market Supervisory Authority;

**FSMA** means the Financial Services and Markets Act 2000;

**Fund** means any person, company, trust, limited partnership or fund managed professionally for professional investment purposes;

**Group** means, together, the Company and its subsidiaries;

**Group Companies** means the Company and its subsidiaries and **Group Company** means any of them;

**group undertaking** has the meaning given to that term in section 1161 of the of the Companies Act 2006;

**Initial Accrual Rate** means 5 per cent per annum;

**Initial Accrued Return Preference Shares** has the meaning give to it in clause 5.4(a);

**Initial D Ordinary Shares** means the D Ordinary Shares to be issued to the Institutional Sellers immediately prior to Completion as a result of the conversion of the Initial Preference Shares into D Ordinary Shares in accordance with clause 5.4(c);

**Initial Preference Shares** means the Preference Shares held by the Institutional Sellers as at the date of this agreement and any Initial Accrued Return Preference Shares to be issued to the Institutional Sellers immediately prior to Completion;

**Initial Preferred Consideration** means an aggregate amount equal to \$1.00 per each Initial D Ordinary Share held by the Institutional Sellers as at Completion;

**Insurance Act** means the Insurance Act 1978 of Bermuda;

**Investment Committee** has the meaning given to that term in the SSA;

**Investor Consent** means any investor consent required from Ontario, Caisse and Apollo, in their capacity as “investors”, pursuant to the SSA or the Bye-laws;

**ISA** means the Swiss Federal Insurance Supervision Act;

**Leakage** means:

- (a) any dividend or distribution (whether in cash or in kind), declared, paid or made (directly or indirectly) by a Group Company to any Seller or any of their Related Persons;
- (b) any payment of interest or principal in respect of any indebtedness (including, loans, debt or debt-like securities) owed by any Target Company to any Seller or any of their Related Persons;
- (c) any liabilities of any Seller or any of their Related Persons assumed, indemnified, guaranteed or secured for the benefit of any Seller or any of their Related Persons by any Group Company;
- (d) any payments made by any Group Company to any Seller or any of their Related Persons in respect of the redemption, purchase or repayment of any share capital or other securities being issued, redeemed, purchased or repaid, by any Group Company or any other return of capital (whether by reduction of capital or redemption or purchase of shares or otherwise);
- (e) the waiver, deferral or release by any Group Company of any amount, indebtedness or obligation owed to that Group Company by any Seller or any of their Related Persons;
- (f) the purchase by any Group Company from any Seller or any of their Related Persons of any assets;
- (g) the transfer by any Group Company to any Seller or any of their Related Persons of any asset;
- (h) any payments (including any bonuses and director’s, management, monitoring, service, advisory and professional charges, fees, costs or expenses) made or agreed to be made (directly or indirectly) by any Group Company to, or on behalf of, any Seller or any of their Related Persons;
- (i) any payments made, or liabilities incurred by a Group Company to any person in connection with, or transaction bonuses or equivalent bonuses arising as a result of, the Transaction (including any costs or expenses, or professional fees, paid, payable or incurred) (which, for the purposes of clause 7.2, shall be deemed to be received by the Sellers);

(j) any Taxation arising in respect of any of (a) to (i) above for which any Group Company is liable or liable to account; and

(k) any agreement made by any Group Company to do any matter referred to in (a) to (i) above,

but excludes Permitted Leakage;

**Locked Box Balance Sheet** means the pro-forma consolidated balance sheet of the Group as at the Locked Box Date, adjusted to reflect the issuance of \$80 million of Preference Shares to fund the acquisition of Hartford Financial Products International;

**Locked Box Date** means 31 March 2017;

**Long Stop Date** means:

(a) the date falling 210 days after the date of this agreement; or

(b) at the election of the Non-Apollo Sellers and the Management Representative (acting jointly) by notice in writing to the Purchaser on or prior to the date specified in paragraph (a) above, the date falling 270 days from the date of this agreement; or

(c) such other date agreed in writing between the Non-Apollo Sellers, Management Representative and the Purchaser;

**managed** means a bona fide relationship of management where the relevant managing person is primarily responsible for the investment decisions made by the managed person with respect to its holding of securities or instruments for investment purposes, regardless of whether the relationship is characterised by the managing person and the managed person as a relationship of investment manager, investment adviser, trustee, agent or otherwise;

**Management Promissory Notes** means the following promissory notes issued by the applicable Management Sellers to the Company pursuant a deed establishing the Catalina management shareholder loan scheme dated 4 November 2016 among Christopher M. Fagan, Milton Dean Dwonczyk and Keith Lyon (in his capacity as a specifically authorised representative of all holders of C Ordinary Shares):

(a) promissory note in the amount of US\$850,000 executed by Peter L. Harnik in favour of the Company;

(b) promissory note in the amount of US\$1,000,000 executed by Christopher M. Fagan in favour of the Company;

(c) a promissory note in the amount of £100,000 executed by Milton Dean Dwonczyk in favour of the Company;

(d) a promissory note in the amount of £780,000 executed by Mayur P. Patel in favour of the Company; and

(e) a promissory note in the amount of US\$500,000 executed by Milton Dean Dwonczyk in favour of the Company;

**Management Representative** means Christopher M. Fagan;

**Master Allocation Schedule** means the schedule (substantially in the form set out in Schedule 2) prepared in accordance with clause 6.2 and signed by the Institutional Sellers and the Management

Representative and the Purchaser three Business Days prior to Completion for the purposes of identification, setting out, amongst other things, details of the entire issued share capital of the Company and the holdings of the Shares of the Sellers as at Completion and their respective entitlement to the Initial Preferred Consideration, any Additional Preferred Consideration and the Ordinary Consideration;

**Merger Control Condition** has the meaning given to it in clause 4.10;

**Net Notified Leakage** has the meaning given to it in clause 7.3;

**New York DFS** means the New York State Department of Financial Services;

**Non-Apollo Sellers** means Caisse and Ontario;

**Non-Apollo Notified Sellers' Solicitors Costs** means any fees, costs, expenses and other payments payable to the Sellers' Solicitors which constitute part of the Notified Seller Transaction Costs and were incurred within the period commencing on and including 7 July 2017 and ending on and including the day of Completion;

**Notes Repayment Amount** means, in respect of each Management Seller, all outstanding principal and interest amounts owed by such Management Seller to the Company under the Management Promissory Notes as at the day of Completion, as specified in column (13) of Part 1 of the Master Allocation Schedule;

**Notified Leakage** has the meaning given to it in clause 7.3;

**Notified Seller Transaction Costs** has the meaning set out in clause 7.3;

**Ontario** has the meaning given to it in Part 1 of Schedule 1;

**Ordinary Consideration** means an amount equal to the sum of the Additional Ordinary Consideration plus an amount equal to:

- (a) the Equity Value; *less*
- (b) the Initial Preferred Consideration;

**Ordinary Shares** means the A Ordinary Shares, the B Ordinary Shares and the C Ordinary Shares (but not the D Ordinary Shares);

**Outgoing Director** means a person who is, on or about the date of this agreement a director of a Group Company and who ceases to hold that position on Completion pursuant to the terms of this agreement (including the steps to be taken at Completion);

**Permitted Leakage** means:

- (a) any payment or accrual of base salary or accrued bonuses, the reimbursement of expenses incurred in the course of the employment and the provision or accrual of all other emoluments, pensions and benefits, in each case to Employees in accordance with the terms applicable to such Employees as at the date of this agreement, ordinary course of business and normal past practice (excluding any transaction bonuses or equivalent bonuses paid as a result of the Transaction);
- (b) any payment or accrual of any dividend or bonus to any Management Seller pursuant to the Senior Management Incentive Plan in accordance with normal past practice;

- (c) the provision of services and time spent by Employees in connection with the Transaction (including the reimbursement of any expenses incurred in the course of the employment) to the extent that it constitutes a non-cash benefit to a Seller or any of their Related Persons;
- (d) any payment or accrual of any Preference Capital Return in respect of the Initial Preference Shares whether payable solely in the Initial Accrued Return Preference Shares or satisfied by way of a deemed increase in the Subscription Price in respect of such Preference Shares as contemplated by clause 5.4(a);
- (e) any payment or accrual of any Preference Capital Return on any Additional Funding Preference Shares in accordance with the Bye-laws (including any Preference Capital Return payable solely in any Additional Accrued Return Preference Shares) as contemplated by clause 5.5(b);
- (f) any payment in respect of the Deferred Shares Buy-Back in accordance with clause 5.4(b);
- (g) any payment, or accrual of any amount payable, by a Group Company in respect of the RCF Facility Agreement;
- (h) any waiver fees, and any costs and expenses, payable by a Group Company (including costs and expenses of the RCF Agent, RCF Lenders and RCF Security Trustee), in connection with the RCF CoC Waivers;
- (i) any payment or accrual of any amount payable, by a Group Company to a Seller or any of its Related Persons pursuant to the Transaction Documents;
- (j) any payment which the Sellers can demonstrate to the reasonable satisfaction of the Purchaser has been specifically accrued for in the Locked Box Balance Sheet to the extent that it has been accrued for;
- (k) the payment or accrual of any liability in respect of any directors fees payable to the non-executive directors of the Group in accordance with the terms applicable to such directors as at the date of this agreement, ordinary course of business and normal past practice, together with the reimbursement of any expenses properly incurred in the course of such appointment;
- (l) any fees or costs payable by a Group Company in connection with searches of public registers in Switzerland, Ireland, Guernsey and Bermuda undertaken for disclosure against the warranties provided under the Warranty Deed;
- (m) any Leakage in cash to the extent wholly reimbursed in cash to the relevant Group Company by or on behalf of a Seller or any of its Related Persons before Completion; and
- (n) any payment made or matter undertaken at the written request or with the written consent of the Purchaser and acknowledged by the Purchaser as Permitted Leakage,

in each case together with any Taxation arising in respect of the above for which any Group Company is liable or liable to account;

**Permitted Transaction** means any Proposed Transaction (as defined in the Bye-laws) approved under the SSA and/or Bye-laws as at the date of this agreement, being:

- (a) Project Lieutenant, being the collateralized loss portfolio reinsurance of certain non-affiliate business written by Samsung Fire & Marine Insurance Company (US branch);

- (b) Public Service Insurance Company/Western Select Insurance Company, being the novation of certain direct insurance business from Public Service Insurance Company to the Group and the related acquisition by the Group of Western Select Insurance Company; and
- (c) Project Montgomery – being a collateralized loss portfolio reinsurance of (followed by the passing of full legal responsibility in respect of) certain German medical malpractice business written by the German branch of Zurich Insurance plc,

in each case on such terms as approved by the Investment Committee as at the date of this agreement (subject to any amendments to such terms agreed within the Company's normal practices and procedures which (A) do not require approval of the Investment Committee pursuant to the SSA and (B) do not increase the consideration to be paid by any Group Company beyond the amount or the maximum of any range approved by the Investment Committee as at the date of this agreement);

**Plan Pool** has the meaning given to it in the deed establishing the Senior Management Incentive Plan;

**PRA** means the UK Prudential Regulation Authority;

**Preference Capital Return** has the meaning given to it in the Bye-laws;

**Preference Shares** means the 8% convertible, cumulative, non-redeemable preference shares of \$1.00 each in the capital of the Company;

**Purchaser Controllers** means any person or entity with an interest in (whether direct or indirect and whether economic or otherwise) the Purchaser that is required by applicable law or regulation to obtain consent and approvals from any applicable Regulatory Authority prior to Completion in connection with the Transaction;

**Purchaser's Group** means the Purchaser and its group undertakings and:

- (a) if that person is a Fund, any manager of the investments of that Fund, any of that manager's group undertakings and any Fund whose investments are managed by that manager or any of that manager's group undertakings;
- (b) if that person is a manager of investments of any Fund, any of that manager's group undertakings and any Fund managed by that manager or any of its group undertakings;

in each case excluding, other than for the purposes of clause 4.10, any portfolio company (being a subsidiary undertaking or a group of subsidiary undertakings trading as a separate and distinct going concern) in which funds managed by its holding companies or subsidiaries of its holding companies hold an investment;

**Purchaser Investor** means:

- (a) any Purchaser's Affiliate falling within paragraph (c) of the definition of Affiliate who is an investor, shareholder or holder of a limited partnership interest or other equity interest in a Fund managed by any Purchaser's Affiliate; or
- (b) any Purchaser Controller that is: (i) not an Affiliate of the Purchaser; or (ii) also a person falling within paragraph (a) of this definition;

**Purchaser's Solicitors** means Sidley Austin LLP of Woolgate Exchange, 25 Basinghall Street, London, EC2V 5HA;

**Purchaser's Warranties** means the statements set out in clause 11.1, and **Purchaser's Warranty** means one of them;

**RCF Agent** means the Royal Bank of Scotland plc (in its capacity as agent under the RCF Facility Agreement);

**RCF CoC Waivers** has the meaning given to it under clause 4.1(m);

**RCF CoC Waiver Condition** has the meaning given to it under clause 4.3;

**RCF Facility Agreement** means the \$500m revolving facility agreement originally dated on 12 August 2014 (as amended and restated from time to time and most recently amended on 18 April 2017), between, amongst others, the Company, the RCF Agent and the RCF Lenders;

**RCF Lenders** means the Royal Bank of Scotland plc, Barclays Bank PLC, Royal Bank of Canada, ING Bank N.V. (London Branch), Commonwealth Bank of Australia (London Branch), Natixis (New York Branch) and ABN AMRO Bank N.V.;

**RCF Security Trustee** means the Royal Bank of Scotland plc (in its capacity as security trustee under the RCF Facility Agreement);

**Regulated California Subsidiaries** means National American Insurance Company of California and Danielson National Insurance Company;

**Regulated UK Subsidiaries** means Catalina London Limited, KX Reinsurance Company Limited, OX Reinsurance Company Limited, AGF Insurance Limited and Catalina Worthing Insurance Limited (formerly known as Hartford Financial Products International Limited);

**Regulatory Approvals** has the meaning given to it in clause 4.5;

**Regulatory Authority** means any person, body, authority, government, local government or regulatory agency with regulatory, enforcement, administrative and/or criminal law powers in any jurisdiction;

**Related Person** means, in respect of a person:

- (a) an Affiliate of that person; or
- (b) if that person is an individual, that person's spouse or lineal descendant,

in each case excluding, in respect of a Seller, each Group Company and each other Seller;

**Relevant Proportion** means, in respect of each Seller, the proportion which the Aggregate Consideration apportioned to the Shares held by that Seller as set out in:

- (a) column (9) of Part 1 of the Master Allocation Schedule;
- (b) column (4) of Part 2 of the Master Allocation Schedule; and
- (c) column (9) of Part 2 of the Master Allocation Schedule,

bears to the total Aggregate Consideration for all of the Shares;

**Reserves** means any reserve maintained by the Company in relation to liabilities arising from (re)insurance policies written in the course of its (re)insurance business;

**Retained Shares** means those Ordinary Shares to be retained by the Management Sellers immediately following Completion, as set out in column (6) of Part 1 of the Master Allocation Schedule;

**Sellers** means the Institutional Sellers and the Management Sellers;

**Sellers' Solicitors** means Allen & Overy LLP of One Bishops Square, London E1 6AD;

**Sellers' Solicitors Bank Account** means the bank account of the Sellers' Solicitors held at Barclays Bank plc, One Churchill Place, London E14 5HP with:

SWIFT/BIC: BARCGB22XXX  
Sort code: 20-00-00  
Account number: 87341033,  
IBAN: GB04BARC20000087341033  
Account Name: Allen & Overy LLP Client Account  
Reference: 0087384-0000026 HHRK / PEHJ

or such other account as the Institutional Sellers and the Management Representative shall have notified to the Purchaser in writing not less than three Business Days before the relevant payment is due;

**Seller Transaction Costs** means all fees, costs, expenses and other payments payable by the Institutional Sellers, Management Sellers and/ or a Group Company to its advisers engaged for the Transaction incurred in the period up to and including the day of Completion but excluding:

- (a) any such fees, costs or expenses or other payments to advisers to the Management Sellers (or any of them) relating to the implementation of any management incentive arrangements to be implemented on or after Completion, which shall be borne and discharged in full by the Management Sellers (or relevant Management Sellers, as applicable);
- (b) any such fees, costs and expenses or other payments payable to McMillan LLP, which shall be borne and discharged in full by Caisse;
- (c) any such fees, costs and expenses or other payments payable to Cleary Gottlieb Steen & Hamilton LLP, which shall be borne and discharged in full by Ontario; and
- (d) any such fees, costs and expenses or other payments payable to Sidley Austin LLP and Morgan Lewis LLP which shall be borne and discharged in full by Apollo;

**Sellers' Warranties** means the statements set out in clause 8.1, and **Sellers' Warranty** means one of them;

**Senior Management Incentive Plan** means the incentive plan established pursuant to the deed establishing the Catalina senior management team incentive plan, dated 16 December 2013, between the Company, Chris Fagan and Dean Dwonczyk;

**Shares** means the Ordinary Shares, the Preference Shares and the D Ordinary Shares;

**Share Charges** means the following share charges entered into between the applicable Management Seller and the Company in connection with the Management Promissory Notes:

- (a) share charge dated 5 January 2017 between Peter L. Harnik and the Company;



- (b) share charge dated 12 January 2017 between Christopher M. Fagan and the Company;
- (c) share charge dated 20 April 2017 between Milton Dean Dwonczyk and the Company;
- (d) share charge dated 20 April 2017 between Mayur P. Patel and the Company; and
- (e) share charge dated 21 July between Milton Dean Dwonczyk and the Company;

**SSA** means the subscription and shareholders agreement relating to the Company dated 16 December 2013 (as amended and restated by the amendment and restatement agreement dated 1 August 2017) between the Institutional Sellers and the Management Sellers and the Company;

**Subscription Price** in respect of any Preference Share held by an Institutional Seller other than Apollo means \$1.00 per Preference Share, and in respect of any Preference Share held by Apollo it has the meaning given to it in the Bye-laws;

**subsidiary undertaking** has the meaning given to it in section 1162 of the Companies Act 2006;

**Surviving Provisions** means clauses 1, 13, 14, 18.2 to 18.13, 19, 20, 21, 22 and Schedule 4;

**Taxation** means all forms of taxation, duties, levies, imposts and social security charges, whether direct or indirect including corporate income tax, wage withholding and payroll tax, national social security contributions and employee social security contributions, value added tax, customs and excise duties, capital tax and other legal transaction taxes, dividend withholding tax, land taxes, diverted profits tax, stamp tax, documentary tax, registration tax, real estate transfer tax, environmental taxes and duties and any other type of taxes or duties payable by virtue of any applicable national, regional or local law or regulation and which may be due directly or by virtue of joint and several liability in any relevant jurisdiction; together with any interest, penalties, surcharges or fines relating to them, due, payable, levied, imposed upon or claimed to be owed in any relevant jurisdiction;

**Taxation Authority** means any taxing or other authority (whether within or outside the United Kingdom) competent to impose, administer or collect any Taxation;

**Transaction** means the proposed acquisition of the Shares by the Purchaser pursuant to this agreement;

**Transaction Documents** means this agreement, the Warranty Deed, the Disclosure Letter, the Deed of Termination and Release, the Athene Comfort Letter, any Equity Commitment Letter, any Equity Commitment Letter Accession Deeds and any other document entered into or to be entered into pursuant to or in connection with this agreement;

**Undertaking** has the meaning given to it in section 1161 of the Companies Act 2006;

**Unpaid Notified Seller Transaction Costs** means any Notified Seller Transaction Costs that have not been paid by the Company on or before the day of Completion;

**USD LIBOR** means the London Interbank Offered Rate which shall be calculated on the appropriate Reuters screen (or equivalent screen, if no Reuters screen is available) as the Sellers may decide at or about 11.00 a.m. on the date upon which quotations would ordinarily be given by prime banks in the London interbank market for deposits in USD for a period of one month on the day specified for the determination of an interest rate; and

**Warranty Deed** means the deed of warranty between certain of the Management Sellers and the Purchaser, dated on or about the date of this agreement.

4. In this agreement any reference, express or implied, to an enactment (which includes any legislation in any jurisdiction) includes:
- (a) that enactment as amended, extended or applied by or under any other enactment (before, on or after the date of this agreement);
  - (b) any enactment which that enactment re-enacts (with or without modification); and
  - (c) any subordinate legislation (including regulations) made (before, on or after the date of this agreement) under that enactment, including (where applicable) that enactment as amended, extended or applied as described in subparagraph (a), or under any enactment which it re-enacts as described in subparagraph (b),


in each case except to the extent that any legislation or subordinate legislation made or enacted after the date of this agreement would create or increase the liability of any Seller under this agreement.

5. In this agreement:
- (a) words denoting persons include bodies corporate and unincorporated associations of persons;
  - (b) references to an individual include his estate and personal representatives;
  - (c) subject to clause 16, references to a party to this agreement include the successors or assigns (immediate or otherwise) of that party;
  - (d) a person shall be deemed **connected** with another if that person is connected with that other within the meaning of section 1122 of the Corporation Taxes Act 2010, provided that a person shall not be deemed to be connected with another person solely as a result of being a party to a shareholders' agreement or similar arrangement with that other person;
  - (e) the words **including** and **include** shall mean including without limitation and include without limitation, respectively;
  - (f) any reference importing a gender includes the other genders;
  - (g) any reference to a time of day is to London time;
  - (h) any reference to USD, Dollars, US Dollars, US\$ or \$ is to the lawful currency of United States of America;
  - (i) any reference to writing includes typing, printing, lithography, photography and facsimile but excludes any other form of Electronic Communication;
  - (j) any reference to a document is to that document as amended, varied or novated from time to time otherwise than in breach of this agreement or that document;
  - (k) any reference to a company includes any company, corporation or other body corporate wheresoever incorporated; and
  - (l) any reference to a company or firm includes any company or firm in succession to all, or substantially all, of the business of that company or firm.

6. If there is any conflict or inconsistency between a term in the body of this agreement and a term in any of the schedules or any other document referred to or otherwise incorporated into this agreement, the term in the body of this agreement shall take precedence.
7. The *eiusdem generis* rule does not apply to this agreement. Accordingly, specific words indicating a type, class or category of thing shall not restrict the meaning of general words following such specific words, such as general words introduced by the word **other** or a similar expression. Similarly, general words followed by specific words shall not be restricted in meaning to the type, class or category of thing indicated by such specific words.
8. A reference in this agreement to any English legal term for any action, remedy, method or form of judicial proceeding, legal document, court or any other legal concept or matter shall be deemed to include a reference to the corresponding or most similar legal term in any jurisdiction other than England, to the extent that such jurisdiction is relevant to the transactions contemplated by this agreement or the terms of this agreement.

**SIGNATORIES**

SIGNED by APOLLO ROSE, L.P.  
acting by APOLLO ROSE GP, L.P., its general partner  
acting by DELAWARE ROSE GP, L.L.C its general  
partner

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Duly Authorised Signatory  
) Name: William B. Kuesel  
) Title: Vice President

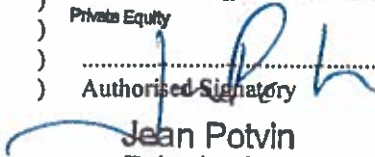
SIGNED by **CDP VSI I LIMITED PARTNERSHIP**  
acting by its general partner, **CDP INVESTISSEMENTS**  
**INC.**

acting by \_\_\_\_\_


acting by \_\_\_\_\_

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)  .....

) **Stéphanie Desrosiers**  
) **Authorised Signatory**  
) **Senior Director, Strategy and Portfolio Management**  
) **Private Equity**

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)  .....

) **Authorised Signatory**  
**Jean Potvin**  
**Principal**

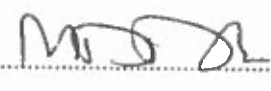
SIGNED by  \_\_\_\_\_  
for  
1397225 ONTARIO LIMITED

)  
) **MICHAEL MURRAY**  
) \_\_\_\_\_  
) Authorised Signatory

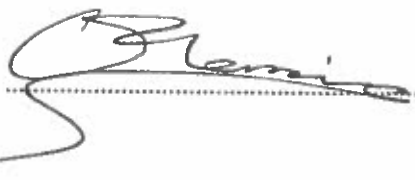
SIGNED by CHRISTOPHER M. FAGAN

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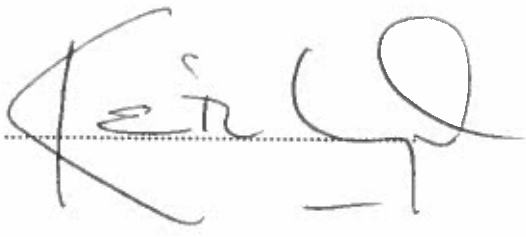
SIGNED by M. DEAN DWONCZYK

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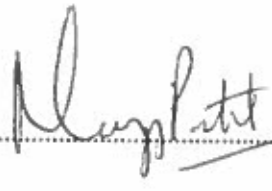
SIGNED by CHRISTOPHER J. FLEMING

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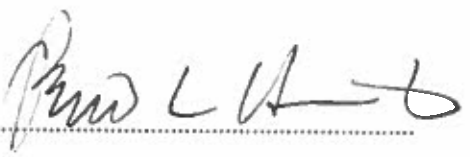
SIGNED by KEITH A. LYON

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SIGNED by MAYUR P. PATEL

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SIGNED by PETER L. HARNIK

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SIGNED by PETER D. JOHNSON

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SIGNED by CHARLES N. KASMER

) *Charles N. Kasmer*  
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SIGNED by GARY HAASE

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SIGNED by PHILIP HERNON

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SIGNED by **CHARLES N. KASMER**

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SIGNED by **GARY HAASE**

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SIGNED by **PHILIP HERNON**

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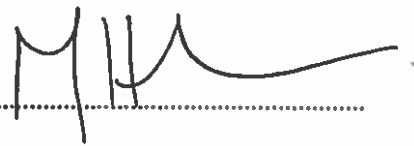
SIGNED by CHARLES N. KASMER

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SIGNED by GARY HAASE

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SIGNED by PHILIP HERNON

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SIGNED for and on behalf of AVALON ACQUISITION, )  
LLC )  
by APOLLO ROSE GP, L.P., its managing member )  
by DELAWARE ROSE GP, L.L.C its general partner )



.....  
Duly Authorised Signatory

Name: William B. Kuessel

Title: Vice President