Question 480 – Break Cost explanation material

Pre June 2005, the Bank provided Economic Cost Wording as attached (Appendix A). While this changed during the period 2001 to 2005 and varied between the loans offered we have attached the variants of these customer disclosures. (Appendices B & C – please also note that appendices B & C contain an automatic date stamp which reverts to today’s date when opened)

In June 2005 following a compliance review the TBLC4 Break Cost Explanation was introduced. This was a word document and was sent out as an email attachment with the language copied into the body of the TBL Strategy Paper in some cases. (Appendix D)

Also at that time (June 2005) the Bank refreshed its TBL loan documents which included more detailed Terms and Conditions. These Terms and Conditions also included a detailed Breakage Cost explanation in Section 8. We have enclosed for your reference a copy of these. (Appendix E)

In April 2009 following a further review by compliance the Break Cost TBL PDF version was introduced. (Appendix F)
What is Economic Cost or Breakage Cost?

When you take out a Tailored Business Loan (TBL) with us, we guarantee the maximum rate of interest we will charge you during the protection period. This means that if market interest rates rise the bank could lose money!

So when we provide a client with interest rate protection, the bank goes into the market to divest our risk with an identical trade.

If a client asks the Bank to repay a lump sum beyond the agreed repayments or to repay the loan in full, then an economic cost may apply to unwind the bank's position. This situation could arise from the sale of a business or property, a change in business strategy or simply outperforming revenues generating cashflow.

Economic Cost is the amount calculated by us as the loss we sustain as a result of your early repayment. If you repay your loan early you will need to pay the balance of the loan outstanding, interest calculated up to the date of repayment plus the Economic Cost amount if applicable.

What is the impact of market interest rates rising or falling?

If interest rates fall, the rate at which we can invest the funds you have repaid will be lower. In that case the differential will be higher and the Economic Cost will be higher. If interest rates dropped to 0% p.a. for example, your Economic Cost will be equal to the amount you would have paid us in interest had you kept the loan for the full protection period.

If interest rates rise, the Economic Cost will reduce since the differential will reduce. If we are able to invest the funds at a rate higher than that you had agreed to pay to us, we will actually pay an "Economic Benefit" to you.

What should I do if I am worried about having to pay Economic Cost if I need to repay my loan early?

Payment of Economic Cost is a contractual obligation in the event that a loan with interest rate protection is repaid early.

You need to consider Economic Cost when considering taking out a TBL with interest rate protection so that you know the potential cost implication of repaying your loan early, should you choose to do so later on.

If you have any doubts about whether a TBL is suitable for you, or you need advice about the future movements of interest rates, you should consult your independent financial advisor or accountant. A more definitive legal explanation of Economic Cost is contained in the TBL documentation.

For further information on Economic Cost please contact your Risk Management Services Representative. The figures quoted in this document are illustrative only and do not necessarily represent market prices which vary.

How is Economic Cost calculated?

When the bank calculates the Economic Cost, we look at the value of your TBL including the fixed / protection interest rate, and compare it against the rate at which we could invest the loan amount for the remainder of the protection period – known as the yield curve.

Say, for example, you had a 5.5% fixed rate loan with a remaining protection period of 7 years and an average balance of £250,000. You notify us that you wish to repay the loan early. We then go to the financial markets to see what rate we would get if we invested £250,000 for the remaining 7 years of the protection period. If the rate offered to us was 3%, the loss we would need to cover is the difference between the amount you would have paid the bank had you maintained the loan for the full protection period (5.5% p.a.), and the amount we can earn by investing the funds (3% p.a.) i.e. the 2.5% p.a. differential.

In simple terms, you will have contracted to pay us £96,250 in interest over the remaining 7 years of the protection period. We will deduct from that figure the amount of interest we will earn by investing the funds, i.e. £52,500 – giving an Economic Cost of £43,750.

Obviously this is only a guide and based on a £250,000 loan but will give you an idea on the pro-rata cost in such an interest rate scenario.
What are Economic Costs?

When you take out a Tailored Business Loan a (TBL) with us we offer you a choice of different floating rate, fixed rate and hybrid rate products designed to help you manage your financial risk.

Just like any other business we also need to manage our financial risk. We need to be certain that we are able to provide you (and our other clients) with the amount of loan for the period you require at the interest rate calculated in accordance with the terms of the relevant product. In order to do so, we enter into various arrangements and agreements both specifically in connection with your loan and in relation to our business more generally.

We enter into these arrangements and agreements on the assumption that we will make funds available to you and that you will pay interest and repay capital to us in accordance with the timetable set out in your TBL. We therefore agree with third parties that they will make funds available to us on particular days in order that we can lend those funds to you and we agree to make payments to third parties on particular days on the basis that we will be receiving payments from you on those days.

If you vary the timing or amount of the payments that you receive from us, or pay to us, under your TBL we must:

- vary or terminate the agreements and arrangements that we have put in place with third parties, or
- put funds which we have obtained from third parties and which you no longer require to an alternative use, or
- find funds from an alternative source (to replace funds that we had anticipated that we would receive from you) to enable us to make scheduled payments to third parties.

In doing any of these things, we may incur a cost.

We call these costs "Economic Costs". It is important to realise that Economic Costs are brought about by you changing the terms of your agreement with us. This is why we pass on these costs to you.

Please note that these Economic Costs could be substantial and therefore you must seek independent financial advice before entering into a TBL.

When do Economic Costs occur?

Economic Costs may occur for a variety of reasons. For example:

- You want to repay the whole or part of a loan early, perhaps because you have generated more profits than you expected, you sell part or the whole of your business or you can obtain better rates with a different type of loan.
- You breach the terms and obligations of the TBL documentation and we require you to repay the loan or part of it early.
- You are having cashflow problems and want to delay payment of part of the capital that you agreed to repay.
- You fail to drawdown the full amount that you agree to drawdown on the date that you agreed to draw it.
- You no longer require the loan and cancel the loan facility other than if this cancellation is provided for in the TBL already.

In each of the above examples the underlying tenet is that the cashflows agreed at the outset are being altered.
How are Economic Costs calculated?

Economic Costs are calculated on the basis of the change in cashflows to us as a result of any alteration to or cancellation of a TBL. Taking the Fixed Rate TBL as an example, in calculating the Economic Cost on a Fixed Rate TBL, we would calculate today's value of the outstanding interest payable by you at the rate agreed under the Fixed Rate TBL Offer Letter.

We would then calculate today's value of interest that could be earned by us if we were to reinvest the funds for the remaining period of time, ie from the time you have requested to break the facility to the original expiry date agreed to in the Fixed Rate TBL Offer Letter. The rate of this calculation is based on the market rate for the remaining term of your facility on the day you have requested to break the original facility.

The difference between these two values then determines whether there is an Economic Cost or benefit to you from breaking this facility. If the value of interest which could have been earned by the bank for the remaining period of your facility is less than the value of the interest owed by you under the agreement then you will pay us an Economic Cost. If the opposite is true, then we will pay you an economic benefit.

Example

You have borrowed £1 million through a Fixed Rate TBL for a term of ten years. The loan will amortise in full over this period in time. The fixed rate you are locked in at is 5.25%. In three years time you approach us to redeem the facility. At that time, the interest rate we are able to earn for the remaining seven years left on the facility is 4.25% as the rates have fallen by 1%. In this example you would be required to pay us an Economic Cost of £27,950 which represents the present value of the difference between your contracted obligation to us at 5.25% and what we can now earn at 4.25% for the remainder of the term of the facility (ie seven years).

What factors may impact on the amount of Economic Costs payable?

All the following are relevant:

- the amount of the loan;
- the unexpired term; and
- long term and short term interest rates on the date the Economic Costs are calculated compared to the interest rate environment on the date you entered into the transaction.

Bearing in mind all of the above in certain circumstances Economic Costs may be substantial.

What should you do if you are worried about having to pay Economic Costs?

Payment of economic costs is a contractual obligation. You need to consider economic costs when choosing a TBL product.

If you have any doubts about whether a particular TBL is suitable for you, or you need advice about the future movements of interest rates, you should consult your independent financial adviser or accountant.

For further information on Economic Costs please contact your Risk Management Services Representative.
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Just like any other business we also need to manage our financial risk. We need to be certain that we are able to provide you (and our other clients) with the amount of loan for the period you require at the interest rate calculated in accordance with the terms of the relevant product. In order to do so, we enter into various arrangements and agreements both specifically in connection with your loan and in relation to our business more generally.

We enter into these arrangements and agreements on the assumption that we will make funds available to you and that you will pay interest and repay capital to us in accordance with the timetable set out in your TBL. We therefore agree with third parties that they will make funds available to us on particular days in order that we can lend those funds to you and we agree to make payments to third parties on particular days on the basis that we will be receiving payments from you on those days.

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- You are having cashflow problems and want to delay payment of part of the capital that you agreed to repay.
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In each of the above examples the underlying tenet is that the cashflows agreed at the outset are being altered.

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We would then calculate today’s value of interest that could be earned by us if we were to reinvest the funds for the remaining period of time, i.e. from the time you have requested to break the facility to the original expiry date agreed to in the Fixed Rate TBL Offer Letter. The rate of this calculation is based on the market rate for the remaining term of your facility on the day you have requested to break the original facility.

The difference between these two values then determines whether there is an Economic Cost or benefit to you from breaking this facility. If the value of interest which could have been earned by the bank for the remaining period of your facility is less than the value of the interest owed by you under the agreement then you will pay us an Economic Cost. If the opposite is true, then we will pay you an economic benefit.

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What factors may impact on the amount of Economic Costs payable?

All the following are relevant:

- the amount of the loan;
- the unexpired term; and
- long term and short term interest rates on the date the Economic Costs are calculated compared to the interest rate environment on the date you entered into the transaction.

Bearing in mind all of the above in certain circumstances Economic Costs may be substantial.

What should you do if you are worried about having to pay Economic Costs?

Payment of economic costs is a contractual obligation. You need to consider economic costs when choosing a TBL product.

If you have any doubts about whether a particular TBL is suitable for you, or you need advice about the future movements of interest rates, you should consult your independent financial adviser or accountant.

For further information on Economic Costs please contact your Risk Management Services Representative.
BREAK COSTS – AN EXPLANATION

What are Break Costs?

When you take out a tailored business loan (TBL) with us we offer you a choice of different floating rate, fixed rate and hybrid rate products designed to help you manage your financial risk.

Just like any other business we also need to manage our financial risk. We need to be certain that we are able to provide you (and our other clients) with the amount of loan for the period you require at the interest rate calculated in accordance with the terms of the relevant product. In order to do so, we may enter into various arrangements and agreements with third parties.

We enter into these arrangements and agreements on the assumption that we will make funds available to you and that you will pay interest and repay capital to us in accordance with the timetable set out in your TBL. We therefore agree with third parties that they will make funds available to us on particular days in order that we can lend those funds to you and we agree to make payments to third parties on particular days on the basis that we will be receiving payments from you on those days.

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- vary or terminate the arrangements and agreements that we have put in place with third parties, or
- put funds which we have obtained from third parties and which you no longer require to an alternative use, or
- find funds from an alternative source (to replace funds that we had anticipated that we would receive from you) to enable us to make scheduled payments to third parties.

In doing any of these things, we may incur a cost. We call these costs "Break Costs". It is important to realise that Break Costs are brought about by you changing the terms of your agreement with us. This is why we pass on these costs to you.

Please note that these Break Costs could be substantial. We strongly recommend that you seek independent financial advice before entering into a TBL.

When do Break Costs occur?

Break Costs may occur for a variety of reasons. For example:

- You want to repay the whole or part of a loan early, perhaps because you have generated more profits than you expected, you sell part or the whole of your business or you can obtain better rates with a different type of loan.

- You breach the terms of the TBL documentation and we require you to repay the loan or part of it early.

- You are having cashflow problems and want to delay payment of part of the capital that you agreed to repay.

- You fail to drawdown the full amount that you agree to drawdown on the date that you agreed to draw it.

- You no longer require the loan and cancel the loan facility (other than if this cancellation is provided for in the TBL already).

In each of the above examples the underlying tenet is that the cashflows agreed at the outset are being altered.
What factors may impact on the amount of Break Costs payable?

All the following are relevant:

- the amount of the loan,
- the unexpired term and
- prevailing interest rates on the date the Break Costs are calculated compared to the interest rate environment on the date you entered into the transaction.

Bearing in mind all of the above in certain circumstances Break Costs may be substantial.

What should you do if you are worried about having to pay Break Costs?

Payment of Break Costs is a contractual obligation. You need to consider the risk of incurring Break Costs when choosing a TBL product.

If you have any doubts about whether a particular TBL is suitable for you, or you need advice about the future movements of interest rates, you should consult your independent financial adviser or accountant.
Tailored Business Loan

Terms and Conditions

[Image: A scene of two individuals in a meeting or discussion setting.]

[Notice: Providing facilities, we do not give any investment, financial, taxation, legal, or other advice. You must satisfy yourself that a facility is suitable for your circumstances and purposes. You should not enter into any loan documents if you do not understand the risks (including condition in relation to break costs). We strongly recommend that you take independent legal and financial advice before entering into any loan documents.]

Yorkshire Bank
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1 PRECONDITIONS
1.1 You may only utilise a Facility when we have received the Preconditions to that Facility in form and substance satisfactory to us. We shall notify you promptly on being so satisfied.
1.2 We may waive any of the Preconditions subject to such conditions as we may decide.
1.3 We will only be under an obligation to advance a Loan to you if both on the date of the Request and on the proposed Utilisation Date:
(a) no Default is continuing or would result from the proposed Loan; and
(b) the Representations are true.

2 UTILISATION
2.1 You may request a Loan by telephoning our Treasury Representative at any time before 10am on the proposed Utilisation Date and specifying:
(a) the Facility to be utilised;
(b) the amount of the proposed Loan (which must be a minimum of the Minimum Drawdown or, if less, the Available Facility);
(c) the currency in which the Loan is to be made; and
(d) the proposed Utilisation Date (which must be a Business Day within the Availability Period).

We will issue a Confirmation to you confirming this conversation
2.2 Each Request made by you shall be irrevocable.
2.3 Each Loan made by us will be credited to your account referred to in condition 18.2.

3 PREPAYMENT AND CANCELLATION
3.1 Notices
(a) Any notice of cancellation or prepayment given by you is irrevocable.
(b) Each notice of cancellation or prepayment must specify:
(i) the Loan to be prepaid (if any);
(ii) the amount to be cancelled or prepaid, and
(iii) the date on which the cancellation or prepayment is to be made.

3.2 Prepayment costs
Any prepayment shall be made together with accrued interest on the amount prepaid, any Break Costs, any applicable Variable Rate Break Costs and any applicable Prepayment Fee.

3.3 Illegality
If it becomes unlawful for us to make available any Facility to you or to advance to you or continue any Loan:
(a) we will notify you;
(b) the Total Facility Amount will be cancelled immediately, and
(c) you will prepay all Loans to us on or prior to the date we specify in that notice (which will not be earlier than the last date of any grace period permitted by law).
3.4 Voluntary prepayment
You may, by giving us not less than 5 Business Days’ prior notice, prepay the whole or any part (being a minimum of the Minimum Prepayment) of a Loan.

3.5 Right to cancel and prepay
(a) If you are required to:
   (i) make an increased payment under condition 3.1, or
   (ii) make a payment under conditions 3.2 or 3.3.
   you may, while the circumstances giving rise to that requirement continue,
   (A) give us notice cancelling all Facilities; and
   (B) repay all Loans.
(b) The Total Facility Amount will be cancelled on receipt of a notice referred to in condition 3.5(a).

3.6 Automatic cancellation
The undrawn amount of the Total Facility Amount will be automatically cancelled on the expiry of the Availability Period.

3.7 No reinstatement
No part of the Total Facility Amount which is cancelled may subsequently be reinstated.

3.8 No reborrowing
Save as expressly provided to the contrary in the Facility Letter, no Loan which is prepaid or repaid may be reborrowed.

4 MARKET DISRUPTION
Where interest on any Loan is calculated by reference to EURIBOR or LIBOR and a Market Disruption Event occurs in relation to that Loan for any Interest Period, then our Cost of Funds shall be substituted for EURIBOR or LIBOR (as applicable) in the calculation of the Interest Rate applicable to that Loan for that Interest Period.

5 DEFAULT INTEREST
5.1 Payment
(a) If you fail to pay any amount payable under a Loan Document on its due date for payment, interest will accrue on that overdue amount from the due date up to the date of payment (both before and after judgment) at a rate which, subject to condition 5.1(b), is 1 per cent higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan in respect of such Facility as we (acting reasonably) may select for successive Interest Periods, each of a duration selected by us (acting reasonably). Any interest accruing under this condition 5.1 shall be immediately payable by you on demand by us.
(b) If any overdue amount consists of all or part of a Loan which
become due on a day which was not the last day of an Interest Period relating to that Loan:
(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be 1 per cent higher than the rate which would have applied if the overdue amount had not become due.
(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amounts at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

6 TAXES

6.1 Gross up
(a) You will make all payments due under the Loan Documents without any Tax Deduction unless that Tax Deduction is required by law.
(b) If you are required by law to make a Tax Deduction in respect of any payment under a Loan Document, that payment shall be increased to the amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
(c) You will not be required to make an increased payment under condition 6.1(b) if on the due date for the payment:
(i) we are not a Qualifying Lender (other than due to a change after the date of the Facility Letters in (or in the application or interpretation of) any law or any published practice or concession of any taxing authority); and
(ii) the payment could have been made to a Qualifying Lender without a Tax Deduction.
(d) If you are required by law to make a Tax Deduction you shall make any payment required in connection with that Tax Deduction to the relevant taxing authority and supply to us within 20 Business Days of making the Tax Deduction evidence reasonably satisfactory to us that such payment has been made to the relevant taxing authority.

6.2 Tax indemnity
(a) You will pay to us on demand an amount equal to any loss, cost or liability which we determine that we have suffered on account of any Tax in respect of any Finance Document.
(b) Condition 6.2(a) does not apply to:
(i) any Tax calculated by reference to our net income (save for sums deemed to be received or receivable); or
(ii) the extent that the loss, cost or liability is compensated for by an increased payment under condition 6.1(b) (to avoid having
been compensated for had the circumstances in condition 6.1(c) not applied.

b) Any demand which we make under condition 6.2(a) will include our calculation of the amount demanded save for any matters which we determine are confidential and relate to our funding or taxation arrangements.

6.3 Tax Credit
If you make an increased payment under condition 6.1(a) or a payment under condition 6.2(a) and we determine that we have obtained, utilised and retained the benefit of a Tax Credit attributable to that increased payment or payment, we will pay to you an amount that we determine leaves us in the same after Tax position as we would have been in had no increased payment been required under condition 6.1(b) or no payment required under condition 6.2(a) (as applicable).

6.4 Stamp taxes
You will pay to us on demand an amount equal to any loss, cost or liability suffered by us in relation to any stamp taxes, registration fees or similar Taxes payable in respect of any Finance Document.

6.5 Value added tax
All amounts expressed to be payable under any Finance Document are exclusive of any applicable VAT and you shall pay any applicable VAT together with such amounts.

7 INCREASED COSTS
7.1 Indemnity
(a) You will pay to us on demand all Increased Costs that we incur as a result of the introduction of, or any change in (or in the application or interpretation of) any law or regulation after the date of the Facility Letter.

(b) Increased Cost means:
(i) a reduction in the rate of return on a Facility or on our overall capital;
(ii) an additional or increased cost; or
(iii) a reduction in any amount payable under any Loan Document, which we suffer or incur as a result of making available a Facility or performing our obligations under any Loan Document.

7.2 Exceptions
Condition 7.1(a) does not apply to the extent that any Increased Cost is:
(a) compensated for by an increased payment under condition 6.1(b) (or would have been compensated for had the circumstances in condition 6.1(c) not applied);
(b) compensated for by a payment under condition 6.2(a) (or would have been compensated for had none of the exceptions in condition 6.2(b) applied).
(c) compensated for by the Mandatory Costs; or
(d) attributable to our wilful breach of any law or regulation

BREAK COSTS

8.1 Acknowledgement
You acknowledge that in order to provide you with a Hedged Facility we or any of our Affiliates will have entered into an arrangement with a third party to hedge our risk to fluctuations in interest rates (a 'Hedging Arrangement') on the assumptions that:
(a) you will utilise the Hedged Facility strictly in accordance with any Requests; and
(b) you will make payments to us strictly in accordance with your obligations under the Loan Documents

8.2 Indemnity
You agree that if:
(a) you do not utilise a Hedged Facility in accordance with a Request (other than by reason of our default);
(b) you cancel a Hedged Facility;
(c) you do not make any payments due under the Loan Documents in respect of a Hedged Facility or a Hedged Loan on its due date for payment;
(d) we receive or recover all or any part of a Hedged Loan other than on its scheduled date for repayment;
(e) the repayment schedule in respect of a Hedged Loan is amended other by agreement between you and us or in accordance with the terms of the Facility Letter; or
(f) we cancel a Hedged Facility in whole or in part or demand early repayment of all or any part of a Hedged Loan (in accordance with our rights under the Loan Documents),
you will pay to us on demand an amount equal to any loss, cost or liability which we determine that we or any of our Affiliates suffers or incurs as a result of the occurrence of these events including, without limitation, any loss, cost or liability suffered or incurred by us or any of our Affiliates in connection with:
(i) maintaining or funding the Hedged Facility;
(ii) taking such action as we or our Affiliate may think fit to preserve the economic equivalent of payments that we would otherwise be entitled to receive from you under the Loan Documents in respect of the Hedged Facility or the Hedged Loan;
(iii) the termination, closing out, cancellation or modification of any Hedging Arrangement; and/or
(iv) liquidating or re-employing deposits from third parties acquired or contracted for in order to fund the Hedged Facility

Any such loss, cost or liability is referred to in the Loan Documents as a Break Cost
8.3 Calculation

(b) You acknowledge that we cannot calculate the amount of any Break Cost in advance as this will be dependant on prevailing market interest rates at the time that the Break Costs are suffered or incurred, but you acknowledge that any Break Cost may be substantial.

(c) You are considering prepaying the whole or any part of a Hedged Loan, we can provide an indication of the likely Break Costs that would be incurred if that early repayment was made straight away.

(c) Following the occurrence of any of the events in conditions 8.2(a) to 8.2(f), we may determine in our absolute discretion:

(i) whether or not we or our Affiliate terminates, closes out, cancels or modifies any Hedging Arrangement; and

(ii) the date on which any such termination, closing out, cancellation or modification occurs.

8.4 Break Gains

(a) If you prepay a Hedged Loan in full and as a result we receive a Break Gain, we will pay to you an amount equal to that Break Gain.

(b) Break Gain means, where we have entered into a Hedging Arrangement in respect of a Hedged Facility and the counterparty to that Hedging Arrangement is prepared to terminate it prior to its maturity date, the amount that that counterparty is prepared to pay to us to terminate the Hedging Arrangement.

8.5 Variable Rate Break Costs

(a) You agree that if:

(i) you repay the whole or any part of a Variable Rate Loan other than on its scheduled date for repayment;

(ii) we receive or recover the whole or any part of a Variable Rate Loan other than on its scheduled date for repayment;

(iii) the repayment schedule in respect of a Variable Rate Loan is amended either by agreement between you and us or in accordance with the terms of the Facility Letter, or

(iv) we demand early repayment of the whole or any part of a Variable Rate Loan (in accordance with our rights under the Loan Documents),
you will pay to us on demand the amount (if any) by which

(A) the interest which we should have received for the period from the date of receipt of all or any part of that Variable Rate Loan to the last day of the current Interest Period in respect of that Variable Rate Loan, had the principal amount received been received on the last day of that Interest Period;

exceeds

(B) the amount which we would be able to obtain by placing an amount equal to the principal amount received by us on
deposit with a prime bank in the London Interbank Market or if the relevant amount is denominated in euro, the European Interbank Market) for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

(b) You agree that if:
(i) you do not utilise a Variable Rate Facility in accordance with a Request for a Variable Rate Loan (other than by reason of our default); or
(ii) you do not make any payment due under the Loan Documents in respect of a Variable Rate Loan on its due date for payment, you will pay to us on demand an amount equal to the loss, cost and liability which we determine that we or our Affiliate will suffer or incur as a result.

(c) Any amounts payable under this condition 9.5 are referred to in the Loan Documents as Variable Rate Break Costs.

MITIGATION

9.1 Mitigation
We will take all reasonable steps to mitigate the occurrence of any circumstances which result in:
(a) the whole or any part of the Total Facility Amount being cancelled or any Loan becoming repayable under condition 3.3;
(b) you being required to make an increased payment under condition 6.1(b) or a payment under condition 6.2(a);
(c) you being required to make a payment under condition 7,
provided that such steps are not, in our opinion, prejudicial to our interests. This does not limit your obligations under the Loan Documents.

9.2 Indemnity
You will pay to us on demand an amount equal to any loss, cost or liability which we suffer or incur as a result of taking any steps under condition 9.1.

10 COSTS AND EXPENSES

10.1 Transaction expenses
You will pay to us on demand an amount equal to all costs and expenses (including professional fees) reasonably incurred by us in connection with the preparation, negotiation, execution and perfection of each Finance Document.

10.2 Amendments/waivers
If any Person requests an amendment to, consent under, or waiver of, any Finance Document to which it is party, you will pay to us on demand an amount equal to all costs and expenses (including professional fees) reasonably incurred by us in evaluating, responding to
or complying with that request together with such amount as we (acting reasonably) determine reflects an appropriate charge for our time spent in evaluating, responding to or complying with that request.

10.3 Enforcement/preservation
(a) You will pay to us on demand an amount equal to all costs and expenses (including professional fees) incurred by us in investigating any circumstances which we reasonably believe may constitute a Default or enforcing or preserving our rights under any Finance Document together with such amount as we (acting reasonably) determine reflects an appropriate charge for our time spent investigating those circumstances or enforcing or preserving those rights.
(b) If at any time we reasonably believe that you are in breach of your obligations under any Finance Document, we may appoint a person to investigate whether a breach has occurred. You will co-operate with any such investigation and will pay to us on demand an amount equal to all costs and expenses that we incur in connection with such appointment.

10.4 Administration expenses
You will pay to us on demand a fee of £500 in order to compensate us for the time spent by us in calculating any Break Cost or Break Gain in respect of any prepayment or cancellation (or any proposed prepayment or cancellation) of the whole or any part of any Loan or the Total Facility Amount.

11 SECURITY
Your liabilities to us under the Loan Documents will be secured by:
(a) any Security; guarantee, indemnity or other assurance which we already hold in respect of your liabilities to us;
(b) the Security Documents, guarantees, indemnities and other assurances (if any) listed in the Preconditions; and
(c) any other Security, guarantee, indemnity or other assurance granted to us in the future whether specifically in respect of your liabilities under the Loan Documents or in respect of your liabilities to us generally.

12 REPRESENTATIONS
12.1 You represent and warrant to us in respect of each Relevant Person that:
(a) (i) if it is a body corporate, it was duly incorporated and is validly existing under the laws of its jurisdiction of incorporation;
(ii) if it is a partnership, it is duly constituted and validly existing under the laws of its jurisdiction of constitution;
(iii) if it is a limited liability partnership, it was duly incorporated and is validly existing under the laws of its jurisdiction of incorporation; and
(a) if it is a trust, it is duly constituted and validly existing under the laws of its jurisdiction of constitution;
(b) it has power to own its assets and to carry on its business as it is being conducted,
(c) it has power and full capacity to enter into and perform its obligations under the Finance Documents to which it is party;
(d) no limit on its powers will be exceeded as a result of it entering into and performing the Finance Documents to which it is party;
(e) all necessary action has been taken to authorise it to enter into and perform the Finance Documents to which it is party;
(f) subject to the Reservations, the obligations expressed to be assumed by it in the Finance Documents are legal, valid, binding and enforceable;
(g) the entry into and performance by it of the Finance Documents do not conflict with:
(i) its constitutional documents (if any),
(ii) any law or regulation applicable to it, or
(iii) any agreement or instrument binding on it or any of its assets or constitute a default under any such agreement or instrument;
(h) it has obtained and maintained in full force and effect all consents, licences or other authorisations required by it to enable it to perform its obligations under the Finance Documents to which it is party;
(i) all factual information provided by it to us under or in connection with any Finance Document was accurate in all material respects when provided and did not omit any information which would render the information provided misleading;
(j) all opinions or forecasts provided by it to us under or in connection with any Finance Document were based on reasonable assumptions and when provided to us reflected its genuine views;
(k) any audited financial statements supplied by it to us under or in connection with any Finance Document were prepared in accordance with GAAP consistently applied,
(l) any unaudited financial statements supplied by it to us under or in connection with any Finance Document fairly represent its financial condition and the results of its operations for the period in respect of which they were prepared;
(m) no litigation, arbitration or other administrative proceedings or investigations have been started or threatened against it which it adversely determined would have a Material Adverse Effect;
(n) it is not in breach of any law or regulation where such breach would have a Material Adverse Effect; and
(o) no Event of Default is continuing.

12.2 Repetition
(a) All Representations are made on the date of your acceptance of the offer contained in the Facility Letter.
13 EVENTS OF DEFAULT

13.1 Events

Each of the following is an Event of Default:

(a) Any Relevant Person fails to pay any amount due under the Finance Documents on its due date for payment and in accordance with the Finance Documents unless the failure to pay is due to a technical error in the transmission of funds and payment is made within 2 Business Days.

(b) You breach any Financial Covenant;

(c) Any Relevant Person does not comply with any provision of the Finance Documents (other than those referred to in conditions 13.1(a) and 13.1(b)) and, if that failure to comply is capable of remedy, it is not remedied within 10 Business Days of the earlier of us giving notice to the Relevant Person or it becoming aware of the failure to comply;

(d) Any representation or statement made by a Relevant Person in any Finance Document or any document delivered to us under or in connection with any Finance Document is incorrect or misleading when made or deemed to be made;

(e) (i) Any Financial Indebtedness of a Relevant Person is or is capable of being declared prematurely due and payable due to the occurrence of an event of default (however described);

(ii) any facility for Financial Indebtedness offered to a Relevant Person is withdrawn or cancelled due to the occurrence of an event of default (however described);

(f) Any Relevant Person is unable or admits an inability to pay its debts or, by reason of actual or anticipated financial difficulties, suspends payment of any of its debts or enters into negotiations with any of its creditors with a view to rescheduling its debts;

(g) Any step is taken with a view to:

(i) the winding up, dissolution, administration or any analogous procedure in respect of any Relevant Person;

(ii) the appointment of a receiver, trustee in bankruptcy, liquidator, administrator or other similar officer of any Relevant Person or its assets other than the presentation of a winding up petition which is frivolous and vexatious and is dismissed within 10 Business Days or, if earlier, prior to the date on which it is advertised; or

(iii) the rescheduling of the debts of any Relevant Person pursuant to a reorganisation, voluntary arrangement or otherwise;

(h) Any steps are taken to enforce any Security over the assets of any
Relevant Person;
(i) Any distress, execution or similar process affects the assets of any Relevant Person and is not discharged within 10 Business Days,
(ii) It becomes unlawful for any Relevant Person to perform its obligations under the Finance Documents,
(iii) Any Security created or expressed to be created by any Finance Document is not or ceases to be valid and effective;
(iv) Any Finance Document ceases to be legal, valid, binding or enforceable (subject to the Reservations);
(v) Any Relevant Person ceases to carry on all or a material part of its business or operations;
(vi) If you are a body corporate or a limited liability partnership, a Change of Control occurs;
(vii) Any Relevant Person who is an individual dies or lacks mental capacity;
(viii) Any Relevant Person which is a body corporate or a limited liability partnership is dissolved or wound up;
(ix) Any Relevant Person which is a trust or partnership is dissolved, terminated or wound up;
(x) Any event occurs or circumstances arise which have a Material Adverse Effect

13.2 Acceleration

While any Event of Default is continuing, we may by giving notice to you (a) cancel all or any part of the Total Facility Amount and all or any of the Facilities; and/or
(b) demand immediate repayment of all or any Loans together with accrued interest and any other sums outstanding under any Finance Document; and/or
(c) declare that all or any Loans are repayable on demand.

14 ASSIGNMENT AND TRANSFER

14.1 Your rights and obligations

You may not assign or otherwise transfer any of your rights or obligations under any Finance Document to any person.

14.2 Our rights and obligations

(a) We may assign or otherwise transfer any of our rights and/or obligations under the Finance Documents to any person.
(b) You will execute such documents and take such other steps as we may reasonably require (at our expense) to give effect to an assignment or other transfer of any of our rights and/or obligations under the Finance Documents.
(c) If we assign or otherwise transfer any of our rights and/or obligations under the Finance Documents to any person (the "New Lender") and as from the date of such assignment or transfer you would be obliged to make an increased payment under condition 6.1(b) or to make a payment under conditions 6.2(a) or 7.1(a), then the New
Lender is only entitled to receive an additional payment or payment under those conditions to the extent that we would have been had the assignment or other transfer not occurred.

15 DISCLOSURE OF INFORMATION
We may disclose any information about you or the Finance Documents:
(a) to any of our Affiliates;
(b) to any Supporter or prospective Supporter,
(c) if required by any governmental or regulatory authority, racing agency, stock exchange or by law;
(d) to our professional advisers;
(e) to any person to whom we assign or transfer (or propose to assign or transfer) any of our rights and/or obligations under the Finance Documents;
(f) to any person with whom we enter into (or propose to enter into) any sub-participation or other transaction under which payments are made by reference to the Finance Documents; and
(g) if the information is publicly available (other than as a result of breach by us of this condition 15).

16 KNOW YOUR CUSTOMER
If as a result of:
(a) the introduction of or any change in (or in the interpretation or application of) any law or regulation after the date of the Facility Letter;
(b) any change in the status or composition of directors (or equivalent officers), members, partners or trustees of any Relevant Person or any person becoming a Supporter after the date of the Facility Letter; or
(c) any proposed assignment or transfer by us of any of our rights and/or obligations under the Finance Documents,
we are or any prospective New Lender is obliged to comply with any "know your customer" or similar identification procedures, you will and will ensure that each Relevant Person will supply to us or to that prospective New Lender such documentation and other evidence as we or it may reasonably request to enable us or it to ensure compliance with those procedures.

17 PAYMENTS
17.1 No set off
All payments to be made by you to us under the Loan Documents shall be made without set off or counterclaim to such account as we notify to you.

17.2 Business Days
(a) If a payment is due on a day which is not a Business Day its due date for payment shall be the next Business Day in the same
calendar month (if there is one) or the preceding Business Day (if there is no)

(b) If the due date for payment of any principal amount or overdue amount is extended under condition 17.2(a) interest and/or default interest will continue to accrue on that principal amount or overdue amount at the rate payable on the original due date.

17.3 Currency
(a) Subject to conditions 17.3(a) to 17.3(f) inclusive, all payments made to us under the Loan Documents shall be made in Sterling
(b) A repayment of a Loan shall be made in the currency in which that loan is denominated
(c) Payments of interest accrued on any sum shall be payable in the currency in which that sum is denominated
(d) Payments of costs, expenses or taxes shall be payable in the currency in which they were incurred
(e) Any amount expressly stated in a Loan Document to be payable in a currency other than Sterling shall be payable in that other currency
(f) If a change in the currency of the United Kingdom occurs, the Loan Documents will be amended to the extent that we (acting reasonably) specify to be necessary to reflect that change in currency and market practice
(g) If a payment is made to us under any Loan Document in a currency (the "Payment Currency") other than the currency in which it is payable (the "Contractual Currency") we shall convert that payment into the Contractual Currency at the rate at which we (acting reasonably and in good faith) are able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable, you will remain liable to pay such shortfall

17.4 Certificates
Any certificate or determination by us of a rate or amount under a Loan Document is, in the absence of manifest error, conclusive of the matters to which it relates

17.5 Day count
Any interest or fee accruing under a Loan Document will accrue from day to day on the basis of the number of days elapsed and, in the case of Sterling, a year of 365 days and, in the case of euro or US dollars, a year of 360 days.

17.6 Order of application
If on any day the amount that we receive from you is insufficient to pay all amounts due and payable by you under the Loan Documents on that day we may determine in our absolute discretion the order in which we
will apply the amount received to the amounts due and payable and our decision shall override any direction which you may make.

SET OFF

18.1 Set off
(a) If you enter into the Loan Documents as a trustee of a trust, we may set off any amount due and payable by you to us in your capacity as trustee of that trust against any amount due and payable by us to you in your capacity as trustee of that trust and if the amounts due are in different currencies we may convert either amount at a market rate of exchange for the purpose of the set off.
(b) In all other cases, we may set off any amount due and payable by you to us against any amount due and payable by us to you and if the amounts due are in different currencies, we may convert either amount at a market rate of exchange for the purpose of the set off.

18.2 Account with us
You shall maintain an account with us to facilitate payments by you under the Loan Documents.

18.3 Authority to debit
We may lawfully debit to your account any amount due and payable by you (but unpaid) under the Loan Documents.

19. NOTICES

19.1 In writing
All communications under the Loan Documents (other than Requests) shall be in writing and may be made by letter or fax.

19.2 Addresses
Our respective addresses and fax numbers for communications are those set out in the Facility Letter or any substitute address or fax number that you may notify to us (or vice versa) by not less than 5 Business Days' notice.

19.3 Delivery
(a) Any written communication under a Loan Document will only be effective:
   (i) if made by fax, when received in legible form; and
   (ii) if made by letter, when left at the relevant address or 2 Business Days after posting postage prepaid in an envelope addressed to the relevant address.

(b) Any written communication to us will only be effective when actually received by us.
20 MISCELLANEOUS

20.1 Partial invalidity
If any provision of any Finance Document is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining provisions shall not be affected or impaired.

20.2 Remedies and waivers
(a) Our failure to exercise or delay in exercising any right or remedy under the Finance Documents shall not constitute a waiver of that right or remedy.
(b) The exercise of partial exercise by us of any right or remedy under the Finance Documents shall not prevent us from exercising any such right or remedy again or exercising any other right or remedy.
(c) Our rights and remedies under the Finance Documents are cumulative and are not exclusive of rights and remedies arising under general law.
(d) Any amendment to or waiver of a provision of the Loan Documents must be in writing and signed by us.

20.3 Counterparts
Each Loan Document may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the relevant Loan Document.

20.4 No provision of advice
You acknowledge that we have not provided any investment, financial, taxation, legal or other advice to you in connection with the Loan Documents or advised you that any facility is suitable or adequate for your circumstances or purposes.

20.5 Telephone recording
You consent to us recording our telephone conversations with you and to those recordings being used in any litigation, arbitration or other proceedings between us.

20.6 Telephone Conversations
(a) You irrevocably and unconditionally authorise us to act on any instructions given to us by, and to agree terms relating to any Loan or proposed Loan with, any person over the telephone if that person purports either to be you or to be authorised by you to issue those instructions and/or agree those terms on your behalf. You acknowledge that we are not obliged to verify the identity or authority of any such person.
(b) You will pay to us on demand an amount equal to any loss, cost or liability which we determine that we have suffered as a result of accepting any instructions or agreeing any terms in relation to a Loan or proposed Loan over the telephone whether that telephone conversation was with:
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(i) you;
(ii) a person properly authorised by you to give those instructions or agree those terms; or
(iii) a person purporting to be you or purporting to be properly authorised by you to give those instructions or agree those terms.

20.7 One agreement
(a) The Loan Documents together form a single agreement;
(b) Unless expressly agreed to the contrary, if there is any conflict between:
(i) the terms of a Confirmation or a Rate Reset Confirmation and any other Loan Document, the provisions of the Confirmation or Rate Reset Confirmation shall prevail; and
(ii) the Facility Letter and these general terms and conditions, the provisions of the Facility Letter shall prevail.

21 DEFINITIONS AND INTERPRETATION
21.1 Definitions
Unless otherwise specified, in the Loan Documents the following terms have the following meanings:

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

"Availability Period" has the meaning given to it in the Facility Letter.

"Available Facility" means the Total Facility Amount less:
(a) the aggregate amount of all Loans outstanding; and
(b) in relation to any proposed Loan, the aggregate amount of all Loans due to be advanced on or prior to the proposed Utilisation Date.

"Break Cost" has the meaning given to it in condition 8.2.

"Break Gain" has the meaning given to it in condition 8.4(b).

"Business Day" means a day (other than a Saturday or a Sunday) on which banks are open for general business in London and:
(a) (in relation to any date for a payment in US dollars) New York; or
(b) (in relation to any date for a payment in euro) any TARGET day.

"Change of Control" has the meaning (if any) given to it in the Facility Letter.

"Compliance Certificate" has the meaning (if any) given to it in the Facility Letter.

"Confirmation" means a written confirmation issued by us to you in accordance with the Facility Letter on drawdown of a Loan and recording terms applicable to that Loan.

"Cost of Funds" means the rate which expresses as a percentage rate per annum the cost to us of funding the relevant Loan from whatever sources we reasonably select.
"Default" means an Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of a notice, the making of a determination or any combination of the foregoing) be an Event of Default.

"EURIBOR" means, in relation to any Loan in euro for any Interest Period:
(a) the rate which appears on the Reuters Monitor Screen Page EURIBOR (or such successor page as we, acting reasonably, may determine); or
(b) if, in respect of any Interest Period, that screen rate is not available, the rate (determined by us) offered to us by prime banks in the European Interbank Market,
at or above 11 am (Brussels's time) on the Interest Calculation Date for that Interest Period, for deposits in an amount equal to that Loan and for a period comparable to that Interest Period.

"Event of Default" means any event or circumstance specified as such either in condition 13.1 or in the Facility Letter.

"Facility" means each loan facility offered to you in the Facility Letter.

"Facility Letter" means the Facility Letter issued by us to you incorporating these general terms and conditions.

"Finance Document" means each Loan Document, each Security Document and each other document designated as a Finance Document by both you and us in writing.

"Financial Covenant" has the meaning (if any) given to it in the Facility Letter.

"Financial Indebtedness" means any indebtedness owed to any person for or in respect of:
(a) moneys borrowed;
(b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
(d) the amount of any liability in respect of any lease or hire purchase contract which would (in accordance with GAAP) be treated as a finance or capital lease;
(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
(f) any hedging transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and when calculating the value of that transaction the marked to market value shall be taken into account);
(g) any counter indemnity in respect of any guarantee, bond, letter of credit or other instrument issued by a financial institution;
(h) any amount of any liability under an advance or deferred purchase agreement if one of the primary reasons behind entering into the
agreement is to raise finance or the agreement is in respect of the
supply of assets or services and payment is due more than 90 days
after the date of supply.
(i) any amount raised under any other transaction having the
commercial effect of borrowing; and
(ii) the amount of any liability in respect of any guarantee for any of
the items referred to in paragraphs (a) – (f) above.
"GAAP" means generally accepted accounting principles in the
jurisdiction in which you carry on your business or operations.
"Hedged Facility" means a Facility which is not a Variable Rate Facility.
"Hedged Loan" means a Loan made or outstanding under a Hedged Facility.
"Hedged Arrangement" has the meaning given to it in condition 8.1.
"Holding Company" means, in relation to any body corporate, any body
corporate in respect of which it is a Subsidiary.
"Increased Cost" has the meaning given to it in condition 7.1(b).
"Interest Calculation Date" means:
(a) in respect of any Loan in Sterling, the first day of an Interest Period
applicable to the Loan; or
(b) in respect of any Loan in eur or US dollars, 2 Business Days prior to
the first day of an Interest Period applicable to that Loan.
"Interest Period" means, in respect of any Loan, the period of 3 months
(such other duration as you and we both agree) commencing on the
Utilisation Date of that Loan and each subsequent period of 3 months (or
such other duration as you and we both agree).
"LIBOR" means, in relation to any Loan for any Interest Period:
(a) the rate which appears on the Reuters Monitor Screen Page
(LIBOR) (British Bankers Association Interest Settlement Rate) for
the relevant currency (or such successor page as we, acting
reasonably, may determine); or
(b) if, in respect of any Interest Period, that screen rate is not available,
the rate (determined by us) offered to us by prime banks in the
London Interbank Market,
at or about 11 a.m. on the Interest Calculation Date for that Interest Period
for deposits in the currency of that Loan, in an amount equal to that Loan
and for a period comparable to that Interest Period.
"Loan" means a Loan made or to be made under a Facility or the principal
amount outstanding for the time being of that Loan.
"Loan Documents" means the Facility Letter (incorporating these
general terms and conditions), each Confirmation, each Compliance
Certificate and each other document designated as a Loan Document by
both you and us in writing.
"Mandatory Costs" means an amount calculated by us to compensate
us for the cost of:
(a) compliance with the requirements of the Bank of England and/or the
Financial Services Authority (or, in either, any other authority which
replaces all or any of its functions); or
(b) the requirements of the European Central Bank,
expressed as a percentage rate per annum.
'Market Disruption Event' means that at or about 11am on an Interest
Calculation Date a screen rate (as described in paragraph (a) of the
definitions of LIBOR or EURIBOR (as applicable) is not available and we
are unable to obtain quotations from prime banks in the relevant
interbank market to enable us to determine EURIBOR or LIBOR (as
applicable).
'Material Adverse Effect' means in our reasonable opinion a material
adverse effect on:
(a) your business, operations, assets, condition or prospects; or
(b) the ability of any Relevant Person to perform its material obligations
under the Finance Documents; or
(c) the validity or enforceability of, or the effectiveness or ranking of any
Security granted or purported to be granted pursuant to any Finance
Document or our rights or remedies under any Finance Document.
'Minimum Drawdown' has the meaning given to it in the Facility Letter.
'Minimum Prepayment' has the meaning given to it in the Facility Letter.
'New Lender' has the meaning given to it in condition 14.2(c).
'Preconditions' has the meaning given to it in the Facility Letter.
'Prepayment Fee' has the meaning (if any) given to it in the Facility Letter.
'Qualifying Lender' means:
(a) a bank (as defined for the purpose of section 349 of the Income and
Corporation Taxes Act 1988) which is within the charge to United
Kingdom corporation tax as respects any payments of interest made
under a Loan Document; or
(b) a lender which is a resident of a jurisdiction having a double taxation
treaty with the United Kingdom which makes provision for full
exemption from tax imposed by the United Kingdom on interest.
'Rate Reset Confirmation' means a written confirmation issued by us
to you reording the interest rate applicable to a Loan for a specified
Interest Period.
'Relevant Person' means:
(a) you (other than in the context of conditions 13.1(e) to 13.1(g)
(inclusive) and condition 13.1(d) if you enter into the Loan
Documents in your capacity as trustee of a trust);
(b) each Supperior;
(c) if you enter into the Loan Documents in your capacity as partner in a
partnership, that partnership; and
(d) if you enter into the Loan Documents in your capacity as trustee of a
trust, that trust.
'Repeated Representations' means the representations in condition
12.1 and any additional Representations specified as such in the Facility
Letter.
'Representations' means the representations in condition 12.1 and any additional representations in the Facility Letter.

'Request' means a request for a Loan made by you in accordance with condition 2.

'Reservations' means:
(a) the principle that equitable remedies may be granted or refused at the discretion of a court;
(b) any limitation on enforcement by virtue of laws relating to insolvency, reorganization or other laws generally affecting the rights of creditors;
(c) the time barring of claims under the Limitation Acts;
(d) the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void;
(e) defences of set off or counter claim, and
(f) similar principles, rights and defences under the laws of any relevant jurisdiction.

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

'Security Document' means each document (if any) listed under the heading 'Security Documents' in the Preconditions, each other document whereby any person (including you) grants Security or issues a guarantee, indemnity or other assurance in respect of your liabilities to us and each other document designated as a Security Document by both you and us in writing.

'Subsidiary' has the meaning given to it in the Facility Letter.

'Supporter' means any person who issues a guarantee or indemnity or grants Security or otherwise gives assurance to us in respect of your liabilities to us under the Loan Documents and includes any person designated as such by both you and us in writing.

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

'TARGET Day' means any day on which TARGET is open for the settlement of payment in euros.

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

'Tax Credit' means a credit against, relief of, repayment of or repayment of any Tax.

'Tax Deduction' means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

'Total Facility Amount' has the meaning given to it in the Facility Letter.

'Treasury Representative' has the meaning given to it in the Facility Letter.

'Utilisation Date' means the date on which a Loan is made.

'Variable Rate Break Costs' has the meaning given to it in condition 6.5.

'Variable Rate Facility' means the variable rate loan facility offered to
21.2 Interpretation
(a) Unless otherwise specified, any reference in the Loan Documents to:
   (i) any Relevant Person includes their successors in title and any references to us includes our successors in title and our assignees and transferees,
   (ii) any agreement or instrument is a reference to that agreement or instrument as amended or novated,
   (iii) a provision of law is to that provision as amended or re-enacted,
   (iv) anything is to the whole and any part of it,
   (v) a person includes any person, company, corporation, government, state or agency of the state, association, trust or partnership (whether or not having a separate legal personality) of two or more of these; and
   (vi) a time is a reference to London time.
(b) Headings are included in the Loan Documents for ease of reference only.
(c) A Default is continuing unless remedied or waived and an Event of Default is continuing unless waived.

21.3 Third party rights
Unless otherwise specified, a person who is not a party to the Loan Documents has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of the Loan Documents.

21.4 Joint and several liability
Where you comprise two or more persons:
(a) the liability of each of you under the Loan Documents is joint and several;
(b) if any of you dies, becomes insolvent or lacks full mental capacity this will not affect the liability of the remainder of you; and
(c) references to your liabilities include the liabilities of any one or more of you.

22 GOVERNING LAW AND JURISDICTION
22.1 Governing law
The Loan Documents are governed by English law.

22.2 Jurisdiction
You agree that the courts of England have jurisdiction to settle any dispute arising out of or in connection with the Loan Documents.
An explanation of Break Costs

What are Break Costs?

When you take out a tailored business loan (a TBL) with us we offer you a choice of different floating rate, fixed rate and hybrid rate products designed to help you manage your financial risk.

Just like any other business we also need to manage our financial risk. We need to be certain that we are able to provide you (and our other clients) with the amount of loan for the period you require at the interest rate calculated in accordance with the terms of the relevant product. In order to do so, we may enter into various arrangements and agreements with third parties. We enter into these arrangements and agreements on the assumption that we will make funds available to you and that you will pay interest and repay capital to us in accordance with the timetable set out in your TBL. We therefore agree with third parties that they will make funds available to us on particular days in order that we can lend those funds to you and we agree to make payments to third parties on particular days on the basis that we will be receiving payments from you on those days.

If you vary the timing or amount of the payments that you receive from us, or pay to us, under your TBL we must:

- vary or terminate the agreements and arrangements that we have put in place with third parties, or
- put funds which we have obtained from third parties and which you no longer require to an alternative use, or
- find funds from an alternative source (to replace funds that we had anticipated that we would receive from you) to enable us to make scheduled payments to third parties.

In doing any of these things, we may incur a cost. We call these costs "Break Costs". It is important to realise that Break Costs are brought about by you changing the terms of your agreement with us. This is why we pass on these costs to you. Please note that these Break Costs could be substantial. We strongly recommend that you seek independent financial advice before entering into a TBL.

When do Break Costs occur?

Break Costs may occur for a variety of reasons. For example:

- You want to repay the whole or part of a loan early, perhaps because you have generated more profits than you expected, you sell part or the whole of your business or you can obtain better rates with a different type of loan
- You breach the terms of the TBL documentation and we require you to repay the loan or part of it early.
- You are having cashflow problems and want to delay payment of part of the capital that you agreed to repay.
- You fail to drawdown the full amount that you agree to drawdown on the date that you agreed to draw it.
- You no longer require the loan and cancel the loan facility (other than if this cancellation is provided for in the TBL already).
- In each of the above examples the underlying tenet is that the cashflows agreed at the outset are being altered.

What factors may impact on the amount of Break Costs payable?

All of the following are relevant:

- the amount of the loan,
- the unexpired term and
- prevailing interest rates on the date the Break Costs are calculated compared to the interest rate environment on the date you entered into the transaction.

What should you do if you are worried about having to pay Break Costs?

Payment of Break Costs is a contractual obligation. You need to consider the risk of incurring Break Costs when choosing a TBL product. If you have any doubts about whether a particular TBL is suitable for you, or you need advice about the future movements of interest rates, you should consult your independent financial adviser or accountant.

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